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APPENDIX F

28 U.S.C.A. 1255

§ 1255. Court of Claims; Certiorari; certified questions

Cases in the Court of Claims may be reviewed by the Supreme Court by the following methods:

(1) By writ of certiorari granted on petition of the United States or the claimant;

* * * * * *

APPENDIX G

Autonomy Act of August 29, 1916
Ch. 416, 39 Stat. 545

CHAP. 416.—An Act To declare the purpose of the people of the United States as to the future political status of the people of the Philippine Islands, and to provide a more autonomous government for those islands.

Whereas it was never the intention of the people of the United States in the incipiency of the War with Spain to make it a war of conquest or for territorial aggrandizement; and

Whereas it is, as it has always been, the purpose of the people of the United States to withdraw their sovereignty over the Philippine Islands and to recognize their independence as soon as a stable government can be established therein; and

Whereas for the speedy accomplishment of such purpose it is desirable to place in the hands of the people of the Philippines as large a control of their domestic affairs as can be given them without, in the meantime, impairing the exercise of the rights of sovereignty by the people of the United States, in order that, by the use and exercise of popular franchise and governmental powers, they may be the better pre-

pared to fully assume the responsibilities and enjoy all the privileges of complete independence:

* * * * * *

Sec. 5. That the statutory laws of the United States hereafter enacted shall not apply to the Philippine Islands, except when they specifically so provide, or it is so provided in this Act.

* * * * * *

APPENDIX H

Military Requisition Act of October 16, 1941
Ch. 445, 55 Stat. 742

AN ACT

To authorize the President of the United States to requisition property required for the defense of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever the President, during the national emergency declared by the President on May 27, 1941, but not later than June 30, 1943, determines that (1) the use of any military or naval equipment, supplies, or munitions, or component parts thereof, or machinery, tools, or materials necessary for the manufacture, servicing, or operation of such equipment, supplies, or munitions is needed for the defense of the United States; (2) such need is immediate and impending and such as will not admit of delay or resort to any other source of supply; and (3) all other means of obtaining the use of such property for the defense of the United States upon fair and reasonable terms have been exhausted, he is authorized to requisition such property for the defense of the United States upon the payment of fair and just compensation

for such property to be determined as hereinafter provided, and to dispose of such property in such manner as he may determine is necessary for the defense of the United States. The President shall determine the amount of the fair and just compenastion to be paid for any property requisitioned and taken over pursuant to this Act and the fair value of any property returned under section 2 of this Act, but each such determination shall be made on the basis of the fair market value of the property at the time it is requisitioned or returned, as the case may be. If, upon any such requisition of property, the person entitled to receive the amount so determined by the President as the fair and just compensation for the property is unwilling to accept the same as full and complete compensation for such property he shall be paid 50 per centum of such amount and shall be entitled to sue the United States in the Court of Claims or in any district court of the United States in the manner provided by sections 24 (20) and 145 of the Judicial Code (U.S.C., 1934 ed., title 28, secs. 41 (20) and 250) for an additional amount which, when added to the amount so paid to him, he considers to be fair and just compensation for such property. Such courts shall also have power to determine in an appropriate proceeding any questions upon the return of any property under section 2 of this Act, regardless of the amount in controversy in any such proceeding.

Nothing contained in this Act shall be construed—

(1) to authorize the requisitioning or require the registration of any firearms possessed by any individual for his personal protection or sport (and the possession of which is not prohibited or the registration of which is not required by existing law),

(2) to impair or infringe in any manner the right of any individual to keep and bear arms, or

(3) to authorize the requisitioning of any machinery or equipment which is in actual use in connection

with any operating factory or business and which is necessary to the operation of such factory or business.

Sec. 2. Wherever the President determines that property acquired under this Act and retained is no longer needed for the defense of the United States, he shall, if the original owner desires the property and pays the fair value thereof, return such property to the owner; but, in any event, property so acquired and retained shall, if the owner desires the property and pays the fair value thereof, be returned to the owner not later than December 31, 1943.

Sec. 3. The President from time to time, but not less frequenlty than once every six months, shall transmit to the Congress a report of operations under this Act.

Sec. 4. The President may issue such rules and regulations and require such information as may be necessary and proper to carry out the provisions of this Act, and he may exercise any power or authority conferred on him by this Act through such department, agency, board, or officer as he shall direct or appoint.

Approved, October 16, 1941.

APPENDIX I

First War Powers Act, 1941

December 18, 1941. Ch. 593, 55 Stat. 838

* * * * * *

TITLE I—COORDINATION OF EXECUTIVE BUREAUS IN THE INTEREST OF THE MORE EFFICIENT CONCENTRATION OF THE GOVERNMENT.

§ 601. Coordination of executive bureaus, offices, etc., by President for national defense and to prosecute the war; issuance of regulations

For the national security and defense, for the successful prosecution of the war, for the support and maintenance of the Army and Navy, for the better utilization of resources and industries, and for the more effective exercise and more efficient administration by the President of his powers as Commander in Chief of the Army and Navy, the President is authorized to make such redistribution of functions among executive agencies as he may deem necessary, including any functions, duties, and powers hitherto by law conferred upon any executive department, commission, bureau, agency, governmental corporation, office, or officer, in such manner as in his judgment shall seem best fitted to carry out the purposes of this title [sections 601-605 of this Appendix], and to this end is authorized to make such regulations and to issue such orders as he may deem necessary, which regulations and orders shall be in writing and shall be published in accordance with the Federal Register Act of 1935 [sections 301-310 and 311-314 of Title 44]: *Provided,* That the termination of this title [sections 601-605 of this Appendix], shall not affect any act done or any right or obligation accruing or accrued pursuant to this title [sections 601-605 of this Appendix], is in force: *Provided further,* That the authority by this title [sections 601-605 of this Appendix], granted shall be

exercised only in matters relating to the conduct of the present war: *Provided further,* That no redistribution of functions shall provide for the transfer, consolidation, or abolition of the whole or any part of the General Accounting Office or of all or any part of its functions.

* * * * * * *

TITLE II—CONTRACTS

§ 611. War contracts exempt from certain restrictions upon authorization by President

The President may authorize any department or agency of the Government exercising functions in connection with the national defense, in accordance with regulations prescribed by the President for the protection of the interests of the Government, to enter into contracts and into amendments or modifications of contracts heretofore or hereafter made and to make advance, progress and other payments thereon, without regard to the provisions of law relating to the making, performance, amendment, or modification of contracts whenever he deems such action would facilitate the prosecution of the war:

* * * * * * *

TITLE III—TRADING WITH THE ENEMY

§ 616. Amendment of section 5 of this Appendix and section 95a of title 12

The first sentence of subdivision (b) of section 5 of the Trading With the Enemy Act of October 6, 1917 (40 Stat. 411), as amended [section 95a of Title 12 and section 5 of this Appendix], is amended to read as follows:

* * * * * * *

"(3) As used in this subdivision the term 'United States' means the United States and any place subject to to the jurisdiction thereof, including the Philippine Islands, and the several courts of first instance of the

Commonwealth of the Philippines Islands shall have jurisdiction in all cases, civil or criminal, arising under this subdivision in the Philippine Islands and concurrent jurisdiction with the district courts of the United States of all cases, civil or criminal, arising upon the high seas . . ."

• • • • • • •

§ 620. ADDITION OF SECTIONS 33-37 OF THIS APPENDIX

Sec. 305. The Trading With the Enemy Act of October 6, 1917 (40 Stat. 411), as amended [sections 1-6 and 7-39 of this Appendix] is further amended by inserting after section 32 thereof, and before the section added by Public Law 382, Seventy-ninth Congress [section 38 of this Appendix], the following sections:

• • • • • • •

"Sec. 34. (a) . . . Debt claims allowable hereunder shall include only those citizens of the United States or of the Philippine Islands; those of corporations organized under the laws of the United States or any State, Territory, or possession thereof, or the District of Columbia or the Philippine Islands; those of other natural persons who are and have been since the beginning of the war residents of the United States and who have not during the war been interned or paroled pursuant to the Alien Enemy Act [section 21 of this title]; and those acquired by the Custodian . . ."

• • • • • • •

APPENDIX J

Declaration That a State of War Exists Between the Imperial Government of Japan and the United States

A State of War between Japan and the United States was declared to exist by the Joint Resolution of December 8, 1941, c. 561, 55 Stat. 795.

END OF WORLD WAR II IN THE PHILIPPINES

The Imperial Government of Japan surrendered in the Philippine Islands September 2, 1945.

Termination of State of War With Japan

The Treaty of Peace with Japan was signed in the City of San Francisco on September 8, 1951. Chapter 1, Article I, provides:

> "(a) The state of war between Japan and each of the Allied Powers is terminated as from the date on which the present treaty comes into force between Japan and the Allied Power concerned as provided for in Article XXIII."

The cessation of hostilities of World War II was officially proclaimed by the President of the United States, Proclamation No. 2714, 12 F.R. 1, of December 31, 1946, as follows:

> "Now, therefore, I, Harry S. Truman, President of the United States of America, do hereby proclaim the cessation of hostilities of World War II effective 12 o'clock noon December 31, 1946."

APPENDIX K

(57 Stat. 590)

Joint Resolution

Relating to the tenure of office of the present President and Vice President of the Philippines.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding the provisions of section 5 of article VII of the amended Constitution of the Philippines, the present President and Vice President of the Commonwealth of the Philippines serving at the time of the introduction of this joint resolution shall continue in their

respective offices until the President of the United States shall proclaim that constitutional processes and normal functions of government shall have been restored in the Philippine Islands. Thereupon, the tenure of office of the present President of the Commonwealth shall cease and the Vice President shall become President to serve until such time as his successor shall have been elected and qualified according to the Constitution and the laws of the Philippines.

Approved November 12, 1943.

Quezon was elected President November 15, 1935.

Quezon died August 1, 1944, and Osmena took the oath of office as President on that date at Washington, D. C. and automatically became Commander-in-Chief of the Philippine Army (App. Q).

APPENDIX L

(50 Stat. 915)

Sugar Act of 1937

(Approved September 1, 1937)

* * * * * *

TITLE V—GENERAL PROVISIONS

* * * * * *

SEC. 503. There is authorized to be appropriated an amount equal to the amount of the taxes collected or accrued under title IV on sugars produced from sugarcane grown in the Commonwealth of the Philippine Islands which are manufactured in or brought into the United States on or prior to June 30, 1941, minus the costs of collecting such taxes and the estimates of amounts of refunds required to be made with respect to such taxes, for

transfer to the Government of the Commonwealth of th Philippines for the purpose of financing a program o economic adjustment in the Philippines, the transfer t be made under such terms and conditions as the Presi dent of the United States may prescribe: *Provided,* Tha no part of the appropriations herein authorized shall b paid directly or indirectly for the production or process ing of sugarcane in the Philippine Islands.

* * * * * *

TABLE 20.

Entries and marketings of sugar in Continental United States from all areas, 1900-52-Continued

(1,000 Short tons, raw value)

Year[1]	Philippines
1934	1,088
1935	917
1936	985
1937	991
1938	981
1939	980
1940	981
1941	855
1942	23
1943	0
1944	0
1945	0

[1] Data on . . . calendar year basis 1919-1952.

Sugar Statistics: U. S. Department of Agriculture, Pro duction and Marketing Administration, Sugar Branch June 1953. The processing tax was at the rate of 0.46 cents per pound on sugar testing by the polariscope 9 sug r degrees and 0.00875 cents for each additional suga degree, or about $9.60 per short ton of Philippine sugar.

APPENDIX M

Executive Order No. 9011

(7 Fed. Reg. 145, January 3, 1942)

Provides, in part:

". . . hereby prescribes the following regulations governing the manner of expending and accounting for funds appropriated for the Army of the Philippines:

"DISBURSEMENTS MADE BY DISBURSING OFFICERS OF THE ARMY OF THE UNITED STATES

"1(b). Advances or reimbursements made to the Government of the Commonwealth of the Philippines by disbursing officers of the Army of the United States, as authorized by the Commanding General, United States Army Forces in the Far East, for necessary expenses authorized by the Act of December 17, 1941, will be accounted for on vouchers evidencing the amounts advanced to or paid as reimbursement to the Government of the Commonwealth of the Philippines, but such vouchers need not be supported by vouchers paid by disbursing officers of the Army of the Philippines.

"DISBURSEMENTS MADE BY DISBURSING OFFICERS OF THE ARMY OF THE PHILIPPINES

"2(a). Necessary expenditures from funds in the Philippine Treasury for the purposes authorized by the act of December 17, 1941, will be made by the disbursing officers of the Army of the Philippines *on the approval or authority of the Commanding General, United States Army Forces in the Far East, and*

*for such purposes as he may deem proper, and his determination thereon shall be final and conclusive upon the accounting officers of the Philippine Government.** . . ." (Italics supplied.)

APPENDIX N

Executive Order 9001 (6 Fed. Reg. 6787, issued December 27, 1941, as amended by Executive Order 9296, 8 Fed. Reg. 1429, January 30, 1943,) authorized the War Department, among other things:

"1. . . . within the limits of the amounts appropriated therefor to enter into contracts . . . heretofore or hereafter made . . . without regard to the provisions of law relating to the making, performance, amendment, or modification of contracts. . . . The Secretary of War . . . may confer upon any officer or officers of [this Department] . . . the power to make further delegations of such powers within the War . . . Department . . ."

"2. The contracts hereby authorized to be made include agreements of all kinds (whether in the form of letters of intent, purchase orders, or otherwise) for all types and kinds of things and services necessary, appropriate or convenient for the prosecution of war . . . including but not limited to . . . equipment, or supplies of any kind, or any portion thereof . . .

"3. The War Department . . . may by agreement . . . settle claims under contracts heretofore or hereafter made . . ."**

---

* General MacArthur, not President Quezon or President Osmena.

** Specific authority to requisition and to establish Army Claims Services.

APPENDIX O

Act of January 26, 1918 (H.R. 7697)

65th Cong., 2d Sess., Public No. 97, Chapter 11.
40 Stat. 432.

House Report 225 (Volume 7307 Lib. of Cong.).
S. Report 195 (Volume 7304, Lib. of Cong.).

Mr. Dent, reporting for the Committee on Military Affairs, said in part as follows (page 1):

"The Committee on Military Affairs, to whom was referred the bill [H.R. 7697] to authorize the calling into the service of the United States the militia and other locally created armed forces of the Philippine Islands, and for other purposes", etc.

In support thereof there was printed a letter from the War Department, Bureau of Insular Affairs, dated December 8, 1917, signed by Frank McIntyre, Chief of Bureau, which reads in part as follows:

"My Dear Mr. Dent:

"At the last session of Congress there was included in bills introduced by you and by the Chairman of the Senate Committee on Military Affairs a *provision authorizing the President of the United States to call into the service of the United States and make use of certain military forces organized by the Philippine Government under an act of the Philippine legislature.*

"These bills included many other sections, many of the important provisions of which were included in the bill to increase the Military Establishment of the United States. It is possible, therefore, that these bills will not again come up for consideration. The section, however, authorizing the utilization of the Philippine troops is most important and I hope that it will be possible to introduce it as a separate measure and that it may be passed early in this session.

"The Philippine Government has gone forward as rapidly as possible in organizing its troops, has followed, in so far as practicable, the steps taken in the United States with reference to officers' training camps and other details of instructions, and that government is naturally desirous that its efforts be recognized as soon as possible and that the men will receive that encouragement which can only come with a knowledge that their efforts are to be made use of."

There followed the proposed section which was adopted as the Act of January 26, 1918, with a recommendation that it be adopted.

The Committee report goes on at page 2 as follows:

"*The object of the bill is to enable the President of the United States to call into the service and place under Federal control such military organizations as may be formed in the Philippine Islands* pursuant to local legislation. While, therefore, this legislation is necessary as placing such armed forces on a proper basis with reference to the National Government, it is particularly necessary at this time in order that the United States may use certain armed forces in the Philippine Islands for the purposes for which they were especially created by the Philippine Government. The people of the Philippine Islands and the Government of the Philippines are—we are informed by General T. L. Hartigan, National Guard, Philippine Islands, and by Resident Commissioner Yangco, of the Philippine Islands, who stated that he had conferred with his colleague, Resident Commissioner de Veyra, who concurred in the belief—with the United States in the present war. *The people desire to show their loyalty to the United States and their gratitude to the United States by service rather than by word.* The object of this legislation is to enable him to do this. Specifically, it is contemplated that the equivalent of a division of troops will be organized in the Philippine Islands. *This legislation is*

to enable the President to call such troops into the service of the United States and to use them wherever it may be necessary or advisable. This division has been very largely organized. To complete its organization requires the stimulus which it will receive from the knowledge that it is to be used and that their offer of service is appreciated and will be availed of." (Italics supplied).

The Senate report contains a letter signed by the Secretary of War, Newton D. Baker, dated December 11, 1917, in exactly the same language as the letter to the House Committee.

APPENDIX P

House Documents, Volume 53, No. 111

THE SIXTH ANNUAL REPORT OF THE UNITED STATES HIGH COMMISSIONER TO THE PHILIPPINE ISLANDS COVERING THE FISCAL YEAR JULY 1, 1941, TO JUNE 30, 1942. (Dated October 30, 1942)

I. General Statement

Page 1

* * * * * * *

* * * Nevertheless, the transition from civilian to military control was marked by no formal procedure; at no time was martial law declared in Manila nor did the United States find it necessary under the powers provided by section 2 (a) (14) of the Independence Act to intervene by Presidential proclamation. Up to the very end the Commonwealth Government continued, within the limits fixed by the Independence Act, as amended, to carry the responsibility for the civil government of the islands.

* * * * * *

Page 2

Military Command

The military defense of the Philippines at the opening of the fiscal year was under the direction of Maj. Gen.

George Grunert, in command of the Philippine Department. General Grunert, an able and effective officer, pressed the work of preparation and reorganization in the Philippine Department and at the same time kept vigorously requesting additional supplies, ammunition, and equipment from Washington. He held the deep loyalty and admiration of his troops.

On July 26, 1941, the President of the United States *ordered the incorporation of the Philippine armed forces into the United States Army,* and on the same day appointed Gen. Douglas MacArthur, formerly Chief of Staff of the United States Army, then military adviser to the Commonwealth Government, to be commander in chief of a new organization to be known as the United States Army Forces in the Far East. As such, he assumed supreme command over the Philippine Department and all United States troops in the Far East. At a time when Japanese war clouds were growing ominously black the President thus placed in command of American forces in the East a man whose brilliant career placed him in the forefront of the military leaders of the world. It was a significant move and it affected the entire military situation of the East. General MacArthur with characteristic vigor and initiative threw himself at once into the work of building up our defense forces and calling for additional material and supplies from Washington. At the same time *he pushed forward the work of inducting Philippine Army troops into the service of the United States Army,* and giving them intensive training under regular United States Army officers. By the time war broke out the bulk of Philippine reservists had been so inducted; and many of these, together with the Philippine Scout troops, played a heroic part in the later defense of Bataan and Corregidor.

• • • • • •

Page 9

Message From President Roosevelt

On December 28, 1941, the President sent a message to the people of the Philippine Islands. It was broadcast by short-wave radio direct to Manila where it was rebroadcast and given to the press. The text of the message is in part, as follows:

"The People of the Philippines:

"News of your gallant struggle against the Japanese aggressor has elicited the profound admiration of every American. As President of the United States, I know that I speak for all our people on this solemn occasion.

* * * * * *

* * * In this great struggle of the Pacific the loyal Americans of the Philippine Islands are called upon to play a crucial role.

"They have played, and they are playing tonight, their part with the greatest gallantry.

"As President I wish to express to them my feeling of sincere admiration for the fight they are now making.

* * * * * *

"It is not for me or for the people of this country to tell you where your duty lies. We are engaged in a great and common cause. I count on every Philippine man, woman, and child to do his duty. We will do ours."

* * * * * *

II. Military and Naval Activities and Civilian Defense

Military Developments

As relations with Japan became increasingly tense, the tempo of military preparations in the Philippines was stepped up. Maj. Gen. George Grunert, in command of the Philippine Department, kept pressing Washington for additional personnel, ammunition, and equipment and

pushing the work of preparing, strengthening, and reorganizing the defense of the islands. *On July 26, 1941* (July 27, Manila date), *President Roosevelt ordered the incorporation of the Philippine armed forces in the United States Army and appointed Gen. Douglas MacArthur as commander of the United States Army forces in the Far East.* Shortly after General MacArthur received this appointment his headquarters issued the following statement:

"The general plan for the integration of all armed forces in the Philippines has been formulated by General MacArthur. It envisions a progressive incorporation of the reserve divisions of the Philippine Army into the service of the United States. It comprehends eventually all elements of the Philippine Army, but until an actual outbreak of hostilities will not include these echelons which are engaged in the normal yearly training activities. This will enable the Philippine Army to continue its uniform development in accordance with the national defense program of the Commonwealth and at the same time *muster for prompt American Army training and service* the other components of the Commonwealth's forces. The constabulary will not be taken over with the exception of certain selected elements.

* * * * * *

The program has been heartily endorsed by President Quezon and is expected to effectuate in a most comprehensive manner the purposes underlying President Roosevelt's proclamation."

Steps were taken immediately to call to service reservists and to train them, as well as Philippine troops on active service, as rapidly as possible. On August 2 an order was issued calling to duty 1 regiment of reservists from each of the 10 military districts plus the personnel of the training cadres from the remaining units of 1 division in each of the 10 military districts. *On August 15,* following

a brief ceremony, *the Philippine Army Air Corps*, involving 6 squadrons and some 500 officers and men, *was incorporated into the American forces*. Reservists not included in the first call were subsequently called up as fast as quarters and training facilities were ready and by December 1941 most qualified reservists had been inducted into the United States Army. Considerable reinforcements, both men and material, were received from the United States and military installations in the islands were improved. Notable increases were made in the air force and ground aviation facilities.

The calling into the service of the armed forces of the United States of the Commonwealth government military forces necessitated the assumption by the United States of expenses previously borne by the Commonwealth. At the same time, the expenses of our military esablishment in the Philippines were being augmented by the increased number of American troops in the islands. To finance the calling of Philippine troops into the service of the United States armed forces and to maintain them until regular appropriations had been made, the President of the United States advanced $15,000,000 from his emergency fund.[1] In December 1941[2] Congress appropriated $269,000,000 "for all expenses necessary for the mobilization, operation, and maintenance of the Army of the Philippines, including expenses connected with calling into the service of the armed forces of the United States the organized military forces of the Government of the Commonwealth of the Philippines * * * of which not to exceed $15,000,000 may be restored to the Emergency Fund for the President * * * in reimbursement of a like amount advanced therefrom * * *". This appropriation was to remain available until June 30, 1943.

* * * * * *

No large concentrations of *United States troops* were sent against Japanese forces landed at the extremities of Luzon presumably because of the danger that they might be cut off and surrounded by Japanese troops landed nearer Manila. (Mainly Filipinos).

• • • • • •

During January *our forces on Bataan* sustained heavy attacks and at one time were obliged to fall back a considerable distance in order to shorten their lines. (Mainly Filipinos) (Italics Supplied).

FRANCIS B. SAYRE,
United States High Commissioner to the Philippine Islands.

APPENDIX Q

Constitution of the Philippines

ARTICLE VII—EXECUTIVE DEPARTMENT

Sec. 5 (9) No person shall serve as President for more than eight consecutive years. The period of such service shall be counted from the date he shall have commenced to act as President. Voluntary renunciation of the office for any length of time shall not be considered as an interruption in the continuity of the service of the incumbent for the full term for which he was elected.

---

8 and 9, *1939 Amendments*, Art. II, sec. 1.

Effective Dec. 30, 1941.

The original sections 5 and 6 of the Constitution read as follows:

"Sec. 5. Elections for President and Vice-President shall be held once every six years on a date to be fixed by the National Assembly."

Sec. 10. (2) The President shall be commander-in-chief of all armed forces of the Philippines and, whenever it becomes necessary, he may call out such armed forces to prevent or suppress lawless violence, invasion, insurrection, or rebellion. In case of invasion, insurrection, or rebellion, or imminent danger thereof, when the public safety requires it, he may suspend the privileges of the writ of habeas corpus, or place the Philippines or any part thereof under martial law.

ORDINANCE APPENDED TO THE CONSTITUTION

Section 1. Notwithstanding the provisions of the foregoing Constitution, pending the final and complete withdrawal of the sovereignty of the United States over the Philippines—

* * * * * * *

(12) The Philippines recognizes the right of the United States to expropriate property for public uses, to maintain military and other reservations and armed forces in the Philippines, and, upon order of the President of the United States, to call into the service of such armed forces all military forces organized by the Government of the Commonwealth of the Philippines.

* * * * * * *

APPENDIX R

First National Assembly
Inaugural Session B. No. 102

Commonwealth Act No. 1

AN ACT TO PROVIDE FOR THE NATIONAL DEFENSE OF THE PHILIPPINES, PENALIZING CERTAIN VIOLATIONS THEREOF, APPROPRIATING FUNDS THEREFOR, AND FOR OTHER PURPOSES.

* * * * * *

TITLE II.—MILITARY ORGANIZATION

* * * * * *

ARTCLE II.—The Regular Force

* * * * * *

Sec. 22. The appointment, promotion, and discharge of officers in the Army shall be as follows:

(a) All commissioned officers in the Army shall be citizens of the Philippines; *Provided,* That the President may in his discretion retain in the Army any officer now holding a commission in the Philippine Constabulary. Commissioned grades authorized in the Army of the Philippines shall include third lieutenant, second lieutenant, first lieutenant, captain, major, lieutenant colonel, colonel, and general officer: *Provided,* That the general officer grade may be further subdivided into grades as prescribed by the President: *And provided, also,* That individuals permanently commissioned in a grade above that of colonel shall be known as General Officers of the Line; those not so commissioned but holding an office in the Army to which the grade of general officer is attached shall be known as General officers of the Staff.

* * * * * *

ARTICLE III.—Enlistment and Reenlistment

* * * * * *

Sec. 27. Any male citizen of the Philippines between eighteen and thirty years of age, able-bodied, free from disease, of good moral character and habits, of average intelligence, and possessed of such educational attainments as may be prescribed, may be enlisted in the Regular Force under the following restrictions:

(a) Enlistments shall be for a term of three years, and may be made by the recruiting officers at stations of the Regular Force.

(b) Unmarried minors between eighteen and twenty-one years of age may be enlisted only on the written and duly attested consent of the father, the mother when she is the only surviving parent, or the publicly-known guardian.

(c) Enlistments for service in any province, except for the Regular Division, the Artillery Corps, and Air Corps, shall be from among residents thereof. In so far as practicable, enlistments in these forces shall be apportioned among the various provinces of the Philippines.

(Authority for Executive Order No. 21, App. X).

APPENDIX 8

U.S. ARMY IN WORLD WAR II
THE WAR IN THE PACIFIC
THE FALL OF THE PHILIPPINES

By Louis Morton

Office of the Chief of Military History
Department of the Army

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pp. 8-9.

The Philippine Army

Before the establishment of the Commonwealth Government in 1935, no effort was made to prepare the Philippines for their own defense. The United States had assumed all obligations for national defense and maintained a garrison in the Islands for that purpose. This garrison numbered about 10,000 men, half of whom were Philippine Scouts, a U. S. Army unit in which the enlisted men, with some exceptions, were native Filipinos and most of the officers American. After 1913 the Philippine garrison was called the Philippine Department, a regular U. S. Army establishment commanded by an American general officer.

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p. 9. One of the first problems of the newly established Commonwealth Government was to make provision for the defense of the archipelago. Such a task required a man with proven military and executive ability, and, since there was no likely candidate in the Philippines, the President-elect Manuel L. Quezon turned to the United States for help. In the summer of 1935, he induced his friend Gen. Douglas MacArthur, then Chief of Staff of the U. S. Army, to become the military adviser to the new government in its effort to organize a national army. President Roosevelt's consent was readily obtained and arrangements quickly concluded.

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General MacArthur selected Majs. Dwight D. Eisenhower and James B. Ord as his principal assistants. With the aid of a special committee from the Army War College, they prepared a plan to provide the Philippine Commonwealth with a system of national security by 1946, the date the Islands would become independent.

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p. 10. The first legislative measure of the Philippine National Assembly was the passage, on 21 December 1935, of the National Defense Act, which embodied the plan proposed by General MacArthur.

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p. 11. Although the district commanders were responsible for defense plans, the Office of the Military Advisor drew up the plans for all major islands—Luzon, Cebu, *Negros*, Panay, Leyte, Mindanao, Bohol, Mindoro—as well as many of the smaller ones.

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pp. 14-15. The Philippines was only one of many bases that had to be protected. Hawaii, Alaska, and Panama—which formed a strategic triangle whose defense was considered essential to the safety of the continental United States—had also been neglected and their needs had to be filled first. "Adequate reinforcements for the Philippines at this time," wrote Gen. George C. Marshall, "would have left the United States in a position of great peril should there be a break in the defense of Great Britain."[1]

What the United States needed more than anything else was time. But Japan's occupation of naval and air bases in southern Indochina on 22 July 1941 gave warning that time was short. *The Philippine Islands, already almost entirely surrounded, were now further threatened and*

[1] *Biennial Report of the Chief of Staff of the United States Army, July 1, 1941 to June 30, 1943 to the Secretary of War* (Washington, 1943), p. 6.

America's position in the Far East rendered precarious. Measures to strengthen the defense of the Philippines could be put off no longer.

The Recall of General MacArthur

The establishment of a new American command in the Far East and the recall of General MacArthur to active duty in the U. S. Army were already under consideration when Japan moved southward in July 1941.

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By a coincidence, on the same day that Stimson talked with Stevenot, Maj. Gen. George Grunert, the Philippine Department commander, asked permission from the War Department to include representatives of the Commonwealth Government in conferences then being held in Manila. The purpose of these meetings was to formulate plans, based on the expected use of $52,000,000 in sugar excise funds, for improving the defenses of the Islands.

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pp. 15-16. The first direct bid for the recall of General MacArthur came from the former Chief of Staff himself and was contained in a letter to General Marshall.[4] In this letter MacArthur stated that since the Philippine Army was to be absorbed by the U. S. Army in the near future—a step not yet contemplated by the War Department—he intended to close out the office of Military Advisor. *A new American military command embracing all U. S. Army activities in the Far East,* comparable to the British command in that area, should be established, he told the Chief of Staff, and he, MacArthur, be named commander.

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[4] The author has been unable to find a copy of this letter in the files of the War Department but its contents are summarized in a memorandum written by General Gerow and addressed to the Chief of Staff on 6 June 1941 (WPD 3251-50). From internal evidence it appears that MacArthur on the same day wrote a letter covering the same subjects to the President and the Secretary of War. See also ltr, Marshall to MacArthur, 20 Jun 41, WPD 3251-50. (App. T)

p. 17. A week later General Gerow summarized for the Chief of Staff the steps being taken for improving the defenses of the Philippine Islands, and on 17 July made the following specific recommendations:

1. That the President, by executive order, call into the service of the U. S. for the period of the emergency all organized military forces of the Commonwealth.

2. That General MacArthur be called to active duty in the grade of Major General and assigned as commander of Army Forces in the Far East.

3. That $10,000,000 of the President's Emergency Fund be allotted to cover the costs of mobilization and training of the Philippine Army for a period of three months.

4. That the training program of the Philippine Army for an additional six to nine months be financed from the sugar excise fund, or from other funds appropriated for this purpose.

5. That 425 Reserve officers be sent to the Philippines to assist in the mobilization and training of the Philippine Army.

Within a week these recommendations had been approved by the Chief of Staff and the Secretary of War. The Secretary immediately requested President Franklin D. Roosevelt to issue the necessary executive order, already drafted and approved, for calling the military forces of the Commonwealth into active service of the United States. (App. B, Pet. for Writ, p. 10a). "Due to the situation in the Far East," Stimson wrote, "all practical steps should be taken to increase the defensive strength of the Philippines Islands." One of the most effective measures to accomplish this would be to call the Philippine Army into active service for a year's training. Such a program, Stimson estimated, would involve about 75,000 men and would cost about $32,000,000, which would be met by the

sugar excise fund. Pending appropriation by Congress, the funds to initiate the program could be met from the President's emergency fund.

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pp. 17-18. On 26 July, the day after Stimson made his recommendations, the President put the freeze into effect and issued the military order which would bring into the service of the United States the armed forces of the Philippines.

The President's military order did not mention General MacArthur by name; it was carefully worded so as to place the forces in the Philippines under a general officer of the United States Army, "to be designated by the Secretary of War from time to time." *The actual induction of Philippine Army units was to be accomplished by orders issued by that general officer.*

The War Department immediately followed up the President's action by establishing, that same day, a new command in the Philippines, with headquarters in Manila. This command, to be called U. S. Army Forces in the Far East (USAFFE), would consist of the Philippine Departmen, those military forces of the Commonwealth ordered into active service for the period of the emergency, and such other forces as might be assigned. At the same time, MacArthur was recalled to active duty, effective on 26 July, with the rank of major general, designated as the general officer referred to in the military order, and put in command of U.S. Army Forces in the Far East. (App. T, p. 53b) *With the establishment of USAFFE and the simultaneous induction of the military forces of the Commonwealth Government,* the two separate military establishments which had existed in the Philippine Islands since 1935 were placed for the first time under one command.

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p. 19. On 31 December 1937, after thirty-eight years' service, eighteen of them as a general officer, MacArthur retired from the Army with the rank of general, to become field marshal in the Philippine Army a short time later. His return to active duty on 26 July 1941 was as major general, his permanent rank before retirement. The next day action to promote him to the rank of temporary lieutenant general was initiated and approved two days later, effective 27 July.

The Organization of USAFFE

The immediate tasks facing General MacArthur were, first, to establish his headquarters and organize his command on an efficient basis; second, *to induct and train the Philippine Army;* and third, to secure the necessary supplies and reinforcements to put his forces on a war footing.

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p. 21. The largest single U. S. Army Unit in the Philippines was the Philippine Division, commanded by Maj. Gen. Jonathan M. Wainwright . . . All of the enlisted men in the division, except those in the 31st Infantry and a few military police and headquarters troops, were Philippine Scouts; the 31st was the only American infantry unit in the Islands composed entirely of Americans. In addition to this regiment, the Philippine Division contained the 45th and 57th Infantry (PS).

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pp. 21-22. The major nondivisional U. S. Army ground elements in the Philippines in July] 1941 included the Harbor Defenses of Manila and Subic Bays, a cavalry regiment, two field artillery regiments, and quartermaster, signal, and military police units.

. . . . . .

The 26th Cavalry was a Philippine Scout organization with two squadrons of three troops each.

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p. 23. *With the establishment of USAFFE, the Philippine Department became a subordinate command.* The headquarters staff was left largely intact, although General MacArthur designated some of its members to serve on his staff in addition to their regular duties, but the mission of the Department was narrowed until its principal task became the training and supply of the Philippine Army. In effect, it became a service command, "an administrative echelon," MacArthur explained, "analagous to a Corps Area." Planning and the tactical control of field troops, organized into task forces, were now centered in USAFFE.

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The War Department accepted this suggestion and on 23 October named MacArthur commander of the Philippine Department, relieved Grunert and ordered him back to the United States.

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p. 25. The integration of the armed forces of the Philippine Commonwealth into the service of the United States was to be gradual.

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p. 35. These reinforcements and supplies were all intended for the regular U. S. Army establishment; *requisitions for the Philippine Army were made and considered separately. His plan of induction had hardly been completed* when MacArthur began to request from the War Department large amounts of supplies for his Philippine troops.

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Since the Philippine Army was not limited in size by law as was the U. S. Army, MacArthur was in the unique position of being able to raise as many troops as the War Department could equip.

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p. 63. The transportation of troops and equipment, the planners realized, would be a difficult problem. There was

a large number of passenger buses on Luzon, centrally organized and operated. The 4,000 trucks on the island were of varying type, size, and condition and were mainly individually owned. *Passenger buses were to be requisitioned immediately by the Army for use as personnel carriers.*

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p. 354. On 8 February, four days after Marshall's inquiry, the War Department received a message for President Roosevelt from Manuel Quezon. In this message Quezon proposed that the United States immediately grant the Philippines their independence; that the Islands be neutralized; that American and Japanese forces be withdrawn by mutual consent; and that the Philippine Army be disbanded.

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pp. 354-355. On 9 February, one day later, President Roosevelt in a personal message to Quezon repudiated the scheme and declared that the United States Government would never agree to such a solution to the war in the Philippines. At the same time he expressed his sympathy for Quezon and the Philippine people and pledged American support *"whatever happens to the present American garrison." "So long as the flag of the United States flies on Filipino soil," Roosevelt assured Quezon, ". . . it will be defended by our own men to the death . . .* we shall not relax our efforts until the forces which are now marshalling outside the Philippine Islands return to the Philippines and drive the last remnant of the invaders from your soil."

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p. 356. *MacArthur himself had repeatedly pointed out the possibility of continuing resistance from Mindanao by means of guerrilla warfare and had already taken measures to strengthen Brig. Gen. William F. Sharp's command.*

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p. 363. The next morning [March 20] Wainwright pinned the third star on his shoulders and moved to Corregidor where Beebe turned over to him the messages from General Marshall and the President.

Wainwright's first official act was to assume command of U. S. Forces in the Philippines (USFIP), the name of his new headquarters, and to make Beebe his chief of staff. *His command, like MacArthur's, included Navy as well as Army elements.*

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p. 365. As a supreme commander of Allied forces in Australia, MacArthur was no longer eligible to command directly U. S. forces any more than he could command those of other nations. Such command would properly be exercised through a U. S. Army headquarters. Marshall therefore recommended to the President that MacArthur be informed that his plan was unsatisfactory and that Wainwright should continue in command of the Philippines. The President agreed and that day, 22 March, a conciliatory message went out to Melbourne. Refraining from specific criticism of the earlier arrangements, the message nevertheless made it clear that unless there were strenous objections Wainwright would remain in command.

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p. 499. The defense of Mindanao and the Visayas—comprising a land area half again as large as Luzon—rested with the Visayan-Mindanao Force, commanded by Brig. Gen. William F. Sharp, who had his headquarters initially on Cebu. This force was composed almost entirely of Philippine Army troops.

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p. 561. On the basis of this estimate of the situation, General Wainwright at 1000 decided to surrender, to sacrifice one day of freedom in exchange for several thousand lives. Like General King, who had surrendered Bataan

four weeks earlier, (April 9, 1942), Wainwright had made his estimate and concluded there was nothing to be gained by further resistance.

Having made his decision, Wainwright ordered Beebe to broadcast a surrender message to General Homma. (May 6, 1942—App. V, p.—)

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p. 562. It was not until midnight of the 6th, fourteen hours after the men on Corregidor had destroyed their weapons, that the Japanese agreed to a cessation of hostilities.

The surrender of scattered detachments hiding out in the mountains of north Luzon and of *General Sharp's Visayan-Mindanao Forces presented even greater difficulties. There the last of the troops did not lay down their arms until almost a month later. Only then did the Japanese admit that organized resistance in the Philippines had ended and accord to their captives the status of prisoners of war.*

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p. 566. What the Americans did not know was that the Japanese colonel was Nakayama, General Homma's senior operations officer and the man who had accepted General King's surrender. Homma had sent him to Corregidor the night before with orders to bring General Wainwright to him only if the American was ready to surrender all his troops.

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p. 569. After it was read, Homma stated through the interpreter that the surrender would not be accepted unless it concluded *all American and Philippine troops in the Islands.* To this Wainwright replied that he commanded only the harbor defense troops. "Tell him," he said to the interpreter, "that the troops in the Visayan Islands and on Mindanao are no longer under my com-

mand. They are commanded by General Sharp, who in turn is under General MacArthur's high command.

. . . . . .

Finally Homma rose, looked down at Wainwright, and said, "At the time of General King's surrender in Bataan I did not see him. Neither have I any reason to see you if you are only the commander of a unit . . . I wish only to negotiate with my equal . . . He seemed ready to leave.

Wainwright was in no position to bargain. Uppermost in his mind was the thought that the troops on Corregidor were disarmed and helpless. If Homma refused now to accept his surrender, these men faced certain death. *After a hurried conference with Beebe and Pugh, he agreed to surrender the entire Phillipine garrison.* General Homma now refused to accept the surrender. "You have denied your authority . . .," he told Wainwright, "I advise you to return to Corregidor and think the matter over. If you see fit to surrender, then surrender to the Commanding officer of the division on Corregidor. He in turn will bring you to me in Manila." With these words Homma left the meeting.

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p. 570. After General Homma's departure, Wainwright offered his unconditional surrender to Colonel Nakayama, who had remained behind to take the Americans back to Corregidor. He agreed also to send one of his officers to Mindanao in a Japanese plane to pursuade Sharp to surrender. "But in the back of my mind," he explained later, "was the strong hope that some way would still be found to avert the surrender of all forces."

. . . . . .

The trip across the channel had been a long and stormy one, but not long enough for Wainwright to find a way out of his dilemma. *MacArthur, he knew, expected Sharp's force to continue the fight as guerrillas and to keep alive resistance on Mindanao.* He had done his best to achieve

this aim, and *Sharp was now free to conduct guerrilla operations.* "But each time I thought of continued organized resistance on Mindanao," Wainwright recalled, "I thought, too, of the perilous position of close to 11,000 men and the wounded and nurses and civilians on Corregidor." The lives of these men and women might well be the price of Sharp's freedom.

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pp. 572-573. There was no discussion of terms. The surrender was unconditional and the document drawn up by the two men contained all the provisions Homma had insisted upon. *Wainwright agreed to surrender all forces in the Philippines, including those in the Visayas and on Mindanao,* within four days. All local commanders were to assemble their troops in designated areas and then report to the nearest Japanese commander. Nothing was to be destroyed and heavy arms and equipment were to be kept intact. "Japanese Army and Navy," read the closing paragraphs, "will not cease their operations until they recognize faithfulness in executing the above-mentioned orders. If and when such faithfulness is recognized, the commander in chief of Japanese forces in the Philippines will order 'cease fire' after taking all circumstances into consideration."

It was midnight by the time the job was finished and the surrender document signed. Wainwright was then taken, under guard and through groups of captured Americans and Filipinos, to Malinta Tunnel, which by now was full of Japanese troops. After a brief conversation with General Moore, to whom he explained the reasons for his decision, he went to the small whitewashed room he had inherited from General MacArthur. With him was his aide and outside a Japanese sentry. Exhausted and humiliated, he threw himself down on his narrow cot. He had not slept and had hardly eaten since the terrible Japanese bombardment of the 5th. But sleep would not come easily. Though

he had done all that he could, the forced surrender lay heavily on his mind. No man could be expected to endure more than he and his men had. This the President had told him in the message received only a few hours before he had gone forward to surrender. Now, in the bitterest moment of his life, he could turn to the consolation of that message from his Commander in Chief:

> In spite of all the handicaps of complete isolation, lack of food and ammunition you have given the world a shining example of patriotic fortitude and self-sacrifice.
>
> The American people ask no finer example of tenacity, resourcefulness, and steadfast courage. The calm determination of your personal leadership in a desperate situation sets a standard of duty for our soldiers throughout the world.

Promptly on the morning of 7 May Homma's intelligence officer Lt. Co. Hikaru Haba, called on General Wainwright to discuss measures required to fulfill the terms of the surrender agreement. The most important step toward carrying out these terms was for Wainwright to reassume command of the Visayan-Mindanao Force and order General Sharp to surrender. Since he could not be sure that a direct order would accomplish this purpose, Wainwright decided to send Col. Jesse T. Traywick, his operations officer, to Mindanao with a letter explaining what had happened. In it he directed General Sharp to surrender the troops under his command and to pass on to General MacArthur the text of the letter and any other instructions given him by Colonel Traywick. "However, let me re-emphasize," he warned, "that there must be on your part no thought of disregarding these instructions. Failure to fully and honestly carry them out can have only the most disastrous results."

The Japanese had still one more humiliation in store for General Wainwright. When the letter was completed,

Colonel Haba announced that the general would go to Manila that afternoon to broadcast the surrender instructions. *General Wainwright* objected strenuously, but finally gave in when he *realized that it would give Sharp an additional twenty-four hours to make his preparations and to inform General MacArthur of the situation.* At 1700, when Haba called for him, he was ready. Accompanied by five of his staff officers he left for Manila, arriving, after many delays, shortly before midnight. He was then taken directly to Radio Station KZRH where, in a voice husky with suppressed emotion, he broadcast the terms of the surrender to General Sharp, Colonel John P. Horan, and Col. Guillermo Nakar, the last of whom commanded small detachments in northern Luzon.

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p. 574. On the 14th Horan surrendered personnally and ordered his troops to assemble in preparation for surrender. But the men came in slowly, and Galbraith, with another American and a few Japanese officers, went into the mountains to try to round them up. *Only a small portion of the troops surrendered. The rest remained in hiding, to become later the nucleus of one of the guerrilla forces in northern Luzon.*

Colonel Kalakuka's mission was even less successful in securing the surrender of Nakar's force, whose actual commander was Lt. Col. Everett L. Warner . . . Nakar refused to surrender, but Warner, with a small group of American officers, followed General Wainwright's orders. *The bulk of the force remained in the mountains, and those who evaded the Japanese were organized into the 14th Infantry (PA) under Colonel Nakar, which continued in existence as a guerrilla force.*

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pp. 574-575. The story of the surrender of the Visayan-Mindanao Force is an even stranger one than that which preceded it. In the south few of the commanders were so

hard pressed as to be incapable of further resistance and none had any desire to surrender. The Japanese had landed on only three islands. On two of these, Cebu and Panay, the local commanders had pulled back to well-stocked and comparatively safe retreats in the mountains, from where they hoped to wage guerrilla warfare for an indefinite period.

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The first intimation Sharp had of Wainwright's intention to reassume command came from the latter's radio broadcast on midnight of the 7th. He immediately repeated the gists of the broadcast, which directed him in unmistakable terms to surrender, to *MacArthur* and asked for further instructions. The reply from Melbourne came promptly: *"Orders emanating from General Wainwright have no validity. If possible separate your force into small elements and initiate guerrilla operations.* You, of course, have full authority to make any decision that immediate emergency may demand."

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He [General MacArthur] could not have realized that it was the fear of what would happen to the 11,000 men on Corregidor which had forced Wainwright to accept Homma's terms.

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pp. 576-577. *General Sharp's* decision to surrender placed him in exactly the same position Wainwright had been in on 7 May. He *now had to reassume command of the officers he had released for guerrilla operations the day before.*

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p. 578. Copies of the correspondence were sent to the various units on Cebu, and the men were told that they could surrender individually if they wished to do so. *Only two Filipinos and two Americans took advantage of this*

opportunity. General Chynoweth then made plans to move to Panay to join forces with Colonel Christie.

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p. 579. *Of all the island commanders none was better prepared for guerrilla operations than the Panay commander, Colonel Christie.*

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pp. 580-581. That night Colonel Christie informed General Sharp that he had talked with Thayer and had decided "to comply faithfully with your orders for the surrender of my division." Two days later he marched his troops to the Japanese lines. *By that time approximately 90 percent of his men had vanished into the hills or gone back to their homes.*

On Leyte and Samar, where there were no Japanese, Colonel Cornell also refused to accept General Sharp's message of 10 May directing the surrender, on the ground that it had been seen in clear text. *He continued with his plans to break up his force of about 2,500 men to carry on guerrilla operations.* About 20 May General Sharp's courier arrived with written instructions for the surrender, and Colonel Cornell issued orders to his troops to comply. The Japanese arrived in Tacloban on 24 May and the surrender was effected two days later. *Only 11 American officers, 40 Philippine officers, and 20 Philippine enlisted men surrendered; the rest disappeared into the hills.*

On Negros, where Colonel Hilsman commanded, trouble of a different sort developed.

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p. 582. The date set for the surrender came and passed with no sign that the Filipinos would obey orders. Twice Hilsman persuaded Colonel Ota to grant an extension of time. When the second extension expired on 3 June, the Japanese agreed to accept Hilsman's surrender with the troops he had by then persuaded to come down out of the

hills, *about 95 percent of one battalion and 30 percent of two others. Two battalions never surrendered at all.*

During the next week the troops on outlying islands submitted to the Japanese, and by *9 June* all forces in the Philippines, with the exception of certain small detachments in isolated areas, had surrendered. On that day General Wainwright was notified that all organized resistance had ended. *"Your high command," the Japanese told him then, "ceases and you are now a prisoner of war."* (Italics supplied).

APPENDIX S (Cont'd.)

U.S. ARMY IN WORLD WAR II
THE WAR IN THE PACIFIC
THE APPROACH TO THE PHILIPPINES

BY

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DEPARTMENT OF THE ARMY
WASHINGTON, D. C., 1953

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p. 14. Allied combat operations were conducted through four operational headquarters subordinate to General MacArthur—the Allied Air Forces, the Allied Land Forces, the Allied Naval Forces, and Alamo Force.

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p. 85. Initially, they [the Japanese] intended only to knock out the U. S. Pacific Fleet, to seize Malaya and the Netherlands East Indies, to occupy the Philippine Islands, and to gain control over a defensive perimeter reaching southwestward from the Kuriles (north of Japan) through Wake Island, the Marianas, the Carolines, and the Marshalls, to Rabaul. After attaining these objectives, the

Japanese expected ultimately to obtain from the United States and Britain a negotiated peace which would leave Japan in possession of a "Greater East Asia Co-Prosperity Sphere."

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p. 429. His [General MacArthur's] planners were reported to have thought it possible that if sufficient carrier support and assault shipping could be made available from Central Pacific sources, the target date for the advance to the Philippines might be greatly accelerated by jumping from Hollandia to the Wakde-Sarmi area, thence to the western Vogelkop, and then directly to Mindanao.

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p. 450.

General MacArthur's Planning

... First, an air base between the Vogelkop and Mindanao would be necessary to provide left (south) flank protection against whatever air power the Japanese could bring to bear from Ambon, Ceram, and the Celebes against Allied forces advancing to Mindanao. Second, the Halmahera air base would be needed to provide land-based air support for the invasion of Mindanao which, in mid-June, General MacArthur tentatively rescheduled to begin on 25 October. (1944)

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pp. 451-452. While General Headquarters, Southwest Pacific Area, was selecting Morotai as the target in the Halmahera region, the Joint Chiefs of Staff requested General MacArthur and Admiral Nimitz to submit comments on the possibility of accelerating the Pacific war by moving forward all current target dates or bypassing selected objectives (including Halmahera, the western Carolines, and the Philippines) in favor of direct jumps to either Formosa or the Japanese home islands.

Neither General MacArthur nor Admiral Nimitz was willing or able to give approval to such proposals. General MacArthur, who felt that bypassing the Philippines would be tantamount to abandoning those islands, believed that a move to Formosa would be impossible until land-based air support was available in the northern Philippines, and he then considered a direct move to Japan impracticable. Admiral Nimitz, like General MacArthur, pointed out that logistic and tactical problems made it impossible to assure meeting current target dates for scheduled operations, and he felt that Southwest Pacific air forces would have to be firmly established in Mindanao before any attempt could be made to move to Formosa.

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p. 454.

Strategic Air Support

. . . The planners kept in mind that the major objective of the two operations was very broad in scope—to secure control over the eastern approaches to the Luzon-Formosa-China coast area.

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pp. 471-472.

Logistics of the Palau Operation

Approximately 49,500 troops were assigned to the III Amphibious Corps to execute the occupation and development of the Palaus during the assault phase of operations on those islands. These troops were divided between services as follows:

U. S. Army	19,800
U. S. Marine Corps	24,300
U. S. Navy	4,800

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p. 575. Nevertheless, with the information available to them in the summer and early fall of 1944, Admiral Nimitz, General MacArthur, and the Joint Chiefs of Staff all

believed that only by securing the Palaus could the Allies dominate Japanese bases in the western Pacific and insure the safety of forces moving toward the Philippines.

APPENDIX S (Cont'd.)

U. S. ARMY IN WORLD WAR II
THE WAR IN THE PACIFIC
LEYTE: THE RETURN TO THE PHILIPPINES

BY

M. HAMLIN CANNON

OFFICE OF THE CHIEF OF MILITARY HISTORY
DEPARTMENT OF THE ARMY
WASHINGTON, D. C., 1954

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p. 1. "It is with the deepest regret that I must inform you that conditions over which I have no control have necessitated the surrender of troops under my command." With this message of 20 May 1942, from Lt. Col. Theodore M. Cornell, U. S. Army, to Bernardo Torres, Governor of Leyte, the control which the United States had held over the island since 1898 came to an end.

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pp. 1-2. The Pacific Theater was divided into two command areas—the Southwest Pacific Area, with General Douglas MacArthur as Supreme Commander (he referred to himself, however, as Commander in Chief), and the Pacific Ocean Area (which included the Central Pacific), with Admiral Chester W. Nimitz as Commander in Chief.

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pp. 14-15.

THE RESISTANCE MOVEMENT ON LEYTE

The Organizing of Guerrilla Bands

A period of uncertainty and confusion followed the surrender of the American and Filipino forces in the Philip-

pines in the spring of 1942. Civilians and members of the armed forces who did not surrender to the Japanese Army fled into the hills. Some went because they wanted to continue the fight, others because they felt that the chaotic conditions on the Islands would afford unequaled opportunities for looting and pillaging.

Once in the hills, the men formed themselves into guerrilla bands.[5] At first all of the bands, because of their lack of money and supplies, freely raided farms and storehouses for food and equipment whenever they had the opportunity. Moreover, there were real bandit groups who frequently and wantonly raped the countryside. For a time all of the groups were discredited by the people. *Gradually, however, strong men emerged who formed the guerrilla bands into semi-military organizations.* The leader of each band, who was generally an ex-member of the armed forces, gave himself a "bamboo commission," usually considerably higher than the one he had hitherto possessed.

The following oath of allegiance taken by the members of one of the bands is probably typical:

> I do solemnly swear that I shall obey orders from my superior officer; that I shall fight the enemy of the Government of the Commonwealth of the Philippines and the United States of America whosoever and wherever he maybe [sic] in the territory of the Philippines; that I shall never allow myself nor any arm or ammunition to be caught by the enemy; that I shall

[5] Unless otherwise stated, material on the guerrillas is based upon the Guerrilla Papers, a collection of disorganized, miscellaneous records by and about the guerrillas in the Philippine Islands. It is located in the Documents Files Section, G-2, Department of the Army.

The records of the Leyte guerrillas are incomplete, inadequate, and controversial. Some of the guerrilla bands had no records, and all that is known of others is from violently prejudiced sources. Consequently, the full story of the guerrillas can probably never be told.

never turn traitor to my country nor the United States of America; and muchless [sic] reveal to the enemy any secret of the Army to which I honorably belong; that I shall never abandon a wounded brother in arms; that I join the United Forces in the Philippines without personal or party interest, but with the determination to sacrifice myself and all that is mine for FREEDOM and DEMOCRACY; that I shall protect the lives and property of all loyal Filipinos everywhere.

I make this LOYALTY OATH without mental reservation or purpose of evasion.

SO HELP ME GOD.

* * * * * *

p. 16. Official recognition from General MacArthur's headquarters was slow in reaching the guerrillas on Leyte, a fact that brought about misunderstandings. General MacArthur had early established contact with Col. Macario Peralta on Panay and Col. Wendell Fertig on Mindanao. *In the middle of February 1943 MacArthur sent Lt. Comdr. Charles Parsons, USNR, to the Islands by submarine.* Before his departure, General Headquarters had established the policies to be followed. The prewar military districts, as of December 1940, were to be revived. *Since General MacArthur had received information that Colonel Fertig had successfully created an effective guerrilla organization on Mindanao and Colonel Peralta one on Panay, he recognized them as commanders of the 10th and 6th Military Districts, respectively.* Radio communication from MacArthur's headquarters informed Peralta and Fertig of the appointments on 21 February 1943. Commander Parsons also carried formal letters, dated 13 February 1943, making these appointments.

Parsons safely reached the Philippines in early March and established friendly relations with Colonel Fertig. While on Mindanao he made several local trips, one to southern Leyte where he heard of Colonel Kangleon who had escaped from the Butuan prison camp and returned to

his home. *Parsons visited Kangleon* with the promise that he would be made commander of the 9th Military District (Leyte and Samar), *and succeeded in persuading him to join the guerrilla movement on Leyte.*

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p. 17. *On 21 October 1943 General MacArthur recognized Colonel Kangleon as the Leyte Area Commander,* and in a letter accompanying the appointment he told Kangleon what he expected of him. "I desire that you establish and maintain direct communication with this headquarters at your earliest opportunity and thereafter you keep me informed of major developments involving enemy movement, dispositions and other activity within your area and observation."

* * * * * *

pp. 18-19. Nevertheless, the Japanese also knew that the guerrillas had established communication with General MacArthur in Australia and that they were sending important information to General Headquarters. *This service the Japanese were unable to cut off.*

Liaison Between Leyte and Australia

After his arrival in Australia in March 1942, General MacArthur had maintained radio contact with Corregidor until 6 May, but because of conditions in the Philippines radio communication with other parts of the Islands was all but impossible. Before its fall, Corregidor maintained radio contact with military commanders on the other islands. Afterward, a few men escaped and made their way to Australia. *The sum of information they brought was not large, but it included the welcome news that guerrilla units were in existence all over the Islands.* In the summer of 1942 General Headquarters began to receive messages from the guerrillas in the Philippines, though at first General MacArthur was not sure that the messages actually came from the guerrillas.

In August 1942 MacArthur decided to get in touch with the members of the resistance movement in the Philippines, and for this purpose he enlisted the services of Maj. Jesus Antonio Villamor, who had escaped from the Islands and who volunteered to return. From August to December methods were devised and plans were made for sending an intelligence party to the Philippines. On 27 December 1942 Major Villamor received orders to return secretly to the Islands by submarine with three other Filipino officers and two enlisted men. They were instructed to establish an intelligence and secret service network throughout the Philippines; develop a chain of communications within the Philippines and to Australia, together with an escape route from the Islands for the evacuation of important personages; build up an organization for subversive activities, propaganda, limited resistance, and sabotage; and make an intelligence survey to obtain information on Japanese political, military, and civil intentions as well as the strength and disposition of Japanese military, naval, and air forces.

Armed with these instructions, Major Villamor returned to the Philippine Islands. Slowly but carefully, from December 1942 to November 1943, he established an intelligence network that covered Luzon and the Visayan Islands.

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p. 20. *The guerrillas of the Philippine Islands made far-reaching contributions to the war effort.* They were an extremely valuable source of intelligence; their activities forced the Japanese to retain in the Philippines comparatively large forces which would otherwise have been sent south; it is estimated that they killed from eight thousand to ten thousand Japanese troops; and, finally, they bolstered the morale, spirit, and loyalty of the Filipino people. They kept alive the hope and belief that the forces of the United States would return and redeem the Islands.

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p. 90. There were two American fleets in Philippine waters—the Seventh Fleet under Admiral Kinkaid, whose superior was General MacArthur, and the Third Fleet under Admiral Halsey, whose superior was Admiral Nimitz.

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p. 152.

Restoration of Civil Government.

The guard of honor, consisting of 1st Lt. John Gregory and thirty enlisted men of the 5th Cavalry, arrived at Tacloban later on 23 October. President Osmena of the Philippine Commonwealth was also present, having come ashore for the occasion. A simple but impressive ceremony was held in front of the municipal building of Tacloban, though the interior of the edifice was a shambles of broken furniture and scattered papers. A guard of honor of "dirty and tired but efficient-looking soldiers" was drawn up in front of the government building. *General MacArthur broadcast an address announcing the establishment of the Philippine Civil Government with President Osmena as its head.* Lt. Gen. Richard K. Sutherland then read the official proclamation. President Osmena spoke appreciatively of American support and of the determination of the Filipinos to expel the enemy. "To the Color" was sounded on the bugle, and the national flags of the United States and the Philippines were simultaneously hoisted on the sides of the building. *Colonel Kangleon of the guerrilla forces was then decorated with the Distinguished Service Cross.*

Few Filipinos except representatives of the local government were present for the ceremony. Apparently the inhabitants had not heard of it, or did not know that they were permitted to attend. Information quickly spread, however, that the civil government had assumed control, and as General MacArthur and his party left town the civil population cheered them.

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p. 179

Capture of Carigara

By 31 October (1944) it became evident to the Americans that there was unusual activity on the part of the Japanese, who were apparently building strong defensive positions around Carigara and pouring reinforcements into the town. Statements by reconnaissance parties and reports from guerrillas led to the belief that 2,000 to 3,000 Japanese were in the town and its environs.

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pp. 198-199.

Civil Affairs

Although the United States Government had interested itself in the civil affairs of the Philippines as early as 13 January 1944, it was not until 10 November, after the Leyte Campaign had been launched, that General MacArthur received his first directive on civil affairs. Between the two dates strong disagreements developed between the War and Interior Departments as to who should administer civil affairs in the Islands. The Interior Department insisted that a civil representative of the High Commissioner of the Philippines should accompany the assault troops, and General MacArthur was equally insistent that he should not. The President finally resolved the question in favor of MacArthur. Lacking a directive from the Joint Chiefs of Staff, General MacArthur devised his own policy for civil affairs during the reoccupation of the Philippines.

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p. 199. During the combat stage General Krueger, the senior tactical commander, was to be responsible for such civil administration and relief as would be possible under the existing tactical situation. General MacArthur would delegate the administration of civil affairs and relief in the liberated areas as promptly as possible to the authorized representatives of the Commonwealth Government.

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p. 201. The Army disarmed all Filipinos except guerrillas and enforced security regulations, which prohibited civilians from appearing on the streets after dark.

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p. 204.

Recruitment of Filipinos

"Hundreds of self appointed guerrillas whose only claim to participation in the guerrilla organization was a recently realized ambition to be of service to their country and to their allies" confronted the assault forces on the beachheads. These individuals caused endless confusion, since it was practically impossible for the Americans to distinguish between the genuine guerrilla and his opportunistic counterfeit. After the first few days, however, the Army made contact with guerrilla headquarters and established liaison with the bona fide guerrillas.

General Krueger made the guerrillas a part of his armed forces, and they became a source of additional strength to the Sixth Army. These men frequently operated and patrolled in enemy-held territory and brought the Americans valuable information on Japanese movements and dispositions; the unit commanders of Sixth Army, however, tended to discount reports from such sources with regard to the size of Japanese forces. The guerrillas also guarded supply dumps and depots, bridges, and other installations in the rear areas.

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p. 228. The battalion had been without food since the morning before. At 0910 Colonel Dahlen ordered Colonel Clifford not to move on to Agahang, which was about 3,800 yards northwest of Limon, until he received rations. The rations were not forthcoming but at 1400 Dahlen told Clifford to obtain the promised rations at Agahang, to which the battalion then proceeded. No supplies were received, but Filipinos furnished the unit with bananas,

cooked rice, boiled potatoes, and a few chickens. A night perimeter was set up.

At 0850 on the following day Colonel Clifford's men received their first airdrop of rations. Ten minutes later the commanding officer of the 1st Battalion of the guerrilla 96th Infantry made contact with Colonel Clifford and gave him a résumé of the enemy situation. (*The guerrillas rendered invaluable aid to the 1st Battalion, 34th Infantry, throughout the Kilay Ridge* episode by furnishing intelligence and protecting the rear of the unit.)

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p. 228. At 0855 on 13 November a column of Filipino men, women, and children entered the perimeter and brought approximately thirty-five boxes of rations from Consuegra.

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p. 250. The sources of information on the Japanese were as follows: ground and aerial reconnaissance, Filipino civilians, guerrillas, captured documents, and prisoners. Air observation was of limited value because of the Japanese ability at camouflage and because the inclement weather prevented aerial observation of many areas. The tendency of the Filipinos to say "yes" to everything was also a handicap. In general, the guerrilla reports were more accurate than those of civilians. Considerable information was obtained from patrols, which were especially valuable for on-the-spot intelligence.

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p. 254. As the troops of the 2d Battalion, 32d Infantry, moved over the mountains to Baybay, guerrillas informed them that about three hundred Japanese soldiers were pushing south toward the Abuyog-Baybay road. These enemy troops were "six marauding units" of the company which had been sent south to make contact with the American forces and contain them until the *26th Division* could

arrive. Company E set up an ambush, killed many of the Japanese, and forced the others to disperse.

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pp. 368-369: *In the plan for the defeat of Japan the objective sought in reconquering the Philippines was not only to liberate the Filipinos but also to cut off the Japanese from the rich empire that they had acquired in the Netherlands Indies, and at the same time to establish a base for the final assault on the enemy's homeland.* As early as 1942 Allied submarines had begun to gnaw at the lifeline between Japan and its new empire, rich in rubber, tin, rice, and, above all, in oil, without which Japan could not remain in the war. By the fall of 1944 the submarines had virtually cut this lifeline, which ran past the Philippines. The loss of the Philippines to the Allies would finally sever it. (Italics supplied).

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APPENDIX T

FROM: WAR DEPARTMENT

BUREAU: SECRETARY, GENERAL STAFF

GENERAL DOUGLAS MACARTHUR JULY 26, 1941

EFFECTIVE THIS DATE THERE IS HEREBY CONSTITUTED A COMMAND DESIGNATED AS THE UNITED STATES ARMY FORCES IN THE FAR EAST stop THIS COMMAND WILL INCLUDE THE PHILIPPINE DEPARTMENT comma FORCES OF THE GOVERNMENT OF THE COMMONWEALTH OF THE PHILIPPINES CALLED AND ORDERED INTO THE SERVICE OF THE ARMED FORCES OF THE UNITED STATES FOR THE PERIOD OF THE EXISTING EMERGENCY comma AND SUCH OTHER FORCES AS MAY BE ASSIGNED TO IT stop HEADQUARTERS UNITED STATES ARMY FORCES IN THE FAR EAST WILL BE ESTABLISHED IN MANILA PHILIPPINE ISLANDS stop YOU ARE HEREBY DESIGNATED AS THE COMMANDING GENERAL UNITED STATES ARMY FORCES IN THE FAR EAST stop YOU ARE ALSO DESIGNATED AS THE GENERAL OFFICER UNITED STATES ARMY REFERRED TO IN A MILITARY ORDER CALLING INTO THE SERVICE OF THE ARMED FORCES OF THE UNITED STATES THE ORGANIZED MILITARY FORCES OF THE GOVERNMENT OF THE COMMONWEALTH OF THE PHILIPPINES DATED JULY 26, 1941 stop ORDERS CALLING YOU TO ACTIVE DUTY ARE BEING ISSUED EFFECTIVE JULY 26, 1941 stop REPORT ASSUMPTION OF COMMAND BY RADIO end

JULY 26, 1941

G. C. MARSHALL

I hereby certify that this message is on official business and necessary in the public service

(signed) ORLANDO WARD
Orlando Ward
Colonel, General Staff
Secretary, General Staff

My dear MacArthur:

In your letter of May 29 you state that the Philippine Army is to be absorbed by the United States Army in the near future, and consequently, that you are closing out your Military Mission. At the present time, War Department plans are not so far reaching. Contingent upon the appropriation of sugar and excise tax funds, Grunert has recommended that about 75,000 troops of the Philippine Army engage in a period of training of from three to

nine months, in order to prepare them for the defense of the Philippines. While the decision as to the termination of the Military Mission is yours, the War Department plans do not contemplate taking over all responsibilities of your Mission in the near future.

Both the Secretary of War and I are much concerned about the situation in the Far East. During one of our discussions about three months ago, it was decided that your outstanding qualifications and vast experience in the Philippines make you the logical selection as the Army Commander in the Far East should the situation approach a crisis. The Secretary has delayed recommending your appointment as he does not feel the time has arrived for such action. However, he has authorized me to tell you that, at the proper time, he will recommend to the President that you be so appointed. It is my impression that the President will approve his recommendation.

This letter is also an acknowledgment of your letters to the President and to the Secretary of War. Please keep its contents confidential for the present.

Faithfully yours,

(Sgd) G. C. MARSHALL
Chief of Staff.

General Douglas MacArthur,
1 Calle Victoria,
Manila, P. I.

APPENDIX U

HEADQUARTERS
UNITED STATES ARMY FORCES IN THE FAR EAST
MANILA, P. I.

General Orders
No. 15

6 October, 1941.

1. Pursuant to the provisions of the Proclamation of the President of the United States, dated July 26, 1941, the First Regiment, Philippine Constabulary, is hereby called into the service of the armed forces of the United States in the Philippines, effective at 12:01 A.M., 15 October, 1941, for the period of the existing emergency.

The acceptance ceremony will be performed by a United States Army Officer designated by the Philippine Department at Camp Rafael Crame, Quezon City, P. I.

2. The above unit, upon acceptance, is assigned to command of the Commanding General, Philippine Department.

By Command of Lieutenant General MacArthur:

R. K. SUTHERLAND,
Brigadier General, GSC,
Chief of Staff.

APPENDIX V

Surrender Message of General Wainwright Broadcast by Radio in the Philippines on 6 May 1942

"Anyone receiving this message please transmit it to the commander in chief of the Imperial Japanese Forces on Luzon.

"'For military reasons which General Wainwright considers sufficient to put a stop to further sacrifice of human life, the commanding general will surrender to Your Excellency today the four fortified islands at the entrance to Manila Bay together with all military and naval personnel and all existing stores and equpiment.

"At twelve noon, local Daylight Savings Time, 6 May 1942, a white flag will be displayed in a prominent position on Corregidor, at which time all firing from the harbor forts will cease unless a landing by Japanese troops in force is attempted without flags of truce, in which case they will be taken under fire.

"If all of your firing and aerial bombardment has ceased at twelve noon local time the commanding general will send two staff officers by boat, flying a white flag, to the Cabcaben dock to meet a Japanese staff officer, whom the commanding general requests that Your Excellency have there, empowered to name the time and place for the commanding general to meet Your Excellency in order that he may make the formal surrender and to arrange all details.

"Upon the return of his staff officers the commanding general will proceed by boat, accompanied by some of his staff, to such place as may be designated by Your Excellency. The commanding general's launch will fly a white flag and his party will consist of five or six persons. He requests that motor transportation meet his party at the landing point designated by you."

Extracted from General Wainwright's journal, written by him in 1946 which is in the official custody of the Department of the Army and which contains data gathered by him from reports, notes and extracts and conferences with other officers.

Text of General Wainwright's Letter to General William F. Sharp, Jr., Dated 7 May 1942, Subject: Surrender

"To put a stop to further useless sacrifice of human life on the Fortified Islands, yesterday I tendered to Lieutenant General Homma, the commander in chief of the Imperial Japanese Forces in the Philippines, the surrender of the four harbor forts in Manila Bay.

"General Homma declined to accept my surrender unless it included the forces under your command. It became apparent that the garrisons of these said forts would be eventually destroyed by aerial and artillery bombardment and by infantry supported by tanks, which have overwhelmed Corregidor.

"After leaving General Homma with no agreement between us I decided to accept in the name of humanity his proposal and tendered at midnight, night 6-7 May 1942, to the senior Japanese officer on Corregidor, the formal surrender of all American and Philippine Army troops in the Philippine Islands. You will therefore be guided accordingly, and will repeat will surrender all troops under your command both in the Visayan Islands and Mindanao to the proper Japanese Officer. This decision on my part, you will realize, was forced upon me by means beyond my control.

"Colonel Jesse T. Traywick, Jr., G.S.C., my assistant chief of staff, G-3, who will deliver this letter to you, is fully empowered to act for me. You are hereby ordered by me as the senior American Army Officer in the Philippine Islands to scrupulously carry out the provisions of this letter, as well as such additional instructions as this staff officer may give you in my name.

"You will repeat the complete text of this letter, and of such other instructions as Colonel Traywick may give you, by radio to General MacArthur. However, let me emphasize that there must be on your part no thought of disregarding these instructions. Failure to fully and honestly carry them out can have only the most disastrous results. Signed, Lieutenant General Johnathan M. Wainwright."

Extracted from General Wainwright's journal, written by him in 1946 which is in the official custody of the Department of the Army and which contains data gathered by

him from reports, notes and extracts and conferences with other officers.

APPENDIX W

Rules of Land Warfare

War Department Field Manual

FM 27-10 1 October 1940

Requisitions

335. *Requisitions.*—Requisitions in kind and services shall not be demanded from municipalities or inhabitants except for the needs of the army of occupation. They shall be in proportion to the resources of the country, and of such a nature as not to involve the inhabitants in the obligation of taking part in military operations against their own country.

Such requisitions and services shall only be demanded on the authority of the commander in the locality occupied.

Contributions in kind shall as far as possible be paid for in cash; if not, a receipt shall be given and the payment of the amount due shall be made as soon as possible (*H.R., art. 52*).

336. *What may be requisitioned.*—Practically everything may be requisitioned under this article that is necessary for the maintenance of the army, such as fuel, food forage, clothing, tobacco, printing presses, type, leather, cloth, etc. Billeting of troops for quarters and subsistence is also authorized.

337. *Method of requisitioning.*—Requisitions must be made under the authority of the commander in the locality. No prescribed method is fixed, but if practicable requisitions should be accomplished through the local authorities by systematic collection in bulk. They may be made direct by detachments if local authorities fail for any reason. Billeting may be resorted to if deemed advisable.

338. *The amount taken.*—The expression "needs of the army" was adopted rather than "necessities of the war" as more favorable to the inhabitants, but the commander is not thereby limited to the absolute needs of the troops actually present. The object was to avoid reducing the population to starvation.

339. *Fixing prices.*—The prices of articles requisitioned will be fixed by agreement if possible, otherwise by military authority. The prices of commodities on sale may also be regulated and limits placed on the hours and places of trading. All authorities agree that it is good policy to pay cash if possible and to take up receipts as soon as possible.

340. *Method of enforcing.*—If cash is paid, coercion will seldom be necessary. The coercive measures adopted will be limited to the amount and kind necessary to secure the articles requisitioned.

APPENDIX X

Executive Order No. 21

DECLARING TO BE ON ACTIVE SERVICE IN THE PHILIPPINE ARMY ALL PERSONS NOW ACTIVELY SERVING IN RECOGNIZED MILITARY FORCES IN THE PHILIPPINES

WHEREAS, many civilians residing in the Philippines of Filipino, American or other foreign citizenships, and Officers and Enlisted Men of the Philippine Army, of the armed forces of the United States and of Allied nations, have continued armed resistance against the Imperial Japanese Government since the sixth of May 1942;

WHEREAS, this action has written in blood an epic of courage, devotion and loyalty to the Government and the people of the Philippines;

WHEREAS, these military forces have contributed in a large measure to the Allied military effort and to the

liberation of the Filipino people from the yolk [sic] of the Japanese invader;

WHEREAS, it is the desire of the Government of the Philpines to recognize this allegiance;

NOW, THEREFORE, I, SERGIO OSMENA, President of the Philippines, by virtue of the authority vested in me by the Emergency Powers Law, Section 22*a* and Section 27 of Commonwealth Act Numbered One notwithstanding, do hereby ordain and promulgate the following:

1. All persons, of any nationality or citizenship, who are actively serving in recognized military forces in the Philippines, are hereby considered to be on active service in the Philippine Army.

2. The temporary grades of Enlisted Men, enlisted or promoted in the field by Commanders of recognized military forces or by their delegated authority, are hereby confirmed.

3. The temporary ranks of all officers, appointed or promoted in the field prior to this date by Commanders of recognized military forces, are hereby confirmed.

4. The date of entry into active service in the Philippine Army will be that of joining a recognized military force.

5. The effective date of rank for commissioned Officers and Enlisted Men will be the date on which they were appointed, designated or recognized by the Commanders of recognized military forces.

6. A recognized military force, as used herein, is defined as a force under a commander who has been appointed, designated or recognized by the Commander-in-Chief Southwest Pacific Area.

Done at the seat of Government in the Field, this 28th day of October, in the year of our Lord, Nineteen Hundred

and Forty-Four, and of the Commonwealth of the Philippines, the Ninth.

/t/ SERGIO OSMENA
President of the Philippines.

By the President:

ARTURO B. ROTOR
Secretary to the President

APPENDIX Y

HEADQUARTERS SIXTH ARMY

APO 442

AG 384 A-2 — 26 March 1945

Subject: Recognized Guerrilla Units.
To: See Distribution

1. a. The guerrilla units listed on attached list have been recognized by the Commander-in-Chief as authorized elements of USAFFE. Under the Provisions of Executive Order No. 21, by the President of the Commonwealth of the Philippines, dated 28 October 1944, the status of members of these units, who have served while the unit was in direct support of Sixth Army combat operations, is that of officers and enlisted men of the Philippine Army.

b. At such times as additional units are recognized, you will be forwarded supplementary lists.

2. It is desired that you notify those units on the attached list that are operating under your control that they have been recognized. The rosters of such units, as required by paragraph 3, letter this headquarters, AG 384 A-2, Subject: "Recognition of Guerrilla Units", dated 25 February 1945 which have not yet been submitted will be furnished without delay.

3. It has been noted from recommendations for recognition submitted by US Army organizations that frequently

individuals, or groups of 2 to 5 persons, from a large guerrilla unit are the only personnel of such unit serving with the US Army organization. In such cases the unit has not been recommended for recognition. For the payment of such individuals for their services, it is desired that they be included on the payroll of a recognized guerrilla unit serving with your command.

By Command of Lieutenant General Krueger:

W. A. MIXTACKI,
Major, A. G. D.
Asst. Adj. Gen.

1 Incl:

List of recognized guerrilla units.

Distribution:

"A" and Corps, Divisions
USAFIP, North Luzon.

HEADQUARTERS

UNITED STATES ARMY FORCES IN THE FAR EAST

APO 501

FEGC 370.64 IJN/jt
8 May 1945

Subject: Recognition of Guerrilla Units.

To: Commanding General, Sixth Army, APO 442.

1. The following guerrilla units are recognized by the Commander-in-Chief, Southwest Pacific Area as authorized elements of this command effective as of the date specified:

a. *Guerrilla Units under the overall command of Capt George S. Miller*

• • • • • •

b. *Guerrilla Units under the overall command of Col Viudez*

. . . . . .

c. *Guerrilla Units under the overall command of Maj Ramsey*

. . . . . .

2. Under the provisions of Executive Order No. 21, by the President of the Commonwealth of the Philippines, dated 26 October 1944, the status of members of these units is that of officers and enlisted men of the Philippine Army.

3. It is desired that a roster of the personnel of each of these units be fowarded at the earliest practicable date.

4. It is further desired that payment of these units be facilitated by finance officers of the Philippine Army, attached to your command.

By command of General MacArthur:

[stamped] JAMES A. CALLENDER
Capt. A. G. D.
Asst. Adj. General

GENERAL HEADQUARTERS
UNITED STATES ARMY FORCES, PACIFIC

CM/jb
AG 370.64 (23 Aug 45) PA — APO 500
23 August 1945

Subject: Recognition of Guerrilla Units.

To: Commanding General, United States Army Forces, Western Pacific, APO 707
Chief of Staff, Philippine Army, APO 501

1. Guerrilla forces as indicated below were recognized by the Commander-in-Chief, SWPA, on dates shown:

Commander	Area	Date
Col. Wendell W. Fertig	10th Mil. Dist.	13 Feb. 1943
Col. Macario Peralta	6th Mil. Dist.	13 Feb. 1943
Col. Ruperto K. Kangleon	Leyte Command	21 Oct. 1943

Commander	Area	Date
Col. Alejandro Suarez	Sulu Command	11 Feb. 1944
Lt. Col. Salvador Abcede	*7th Mil. Dist.*	*8 Jul. 1943*
Lt. Col. James Cushing	Cebu Command	12 Feb. 1944
Lt. Col. Charles W. Smith	Samar Command	4 Oct. 1944
Maj. Ismael P. Ingeniero	Echol Command	21 Oct. 1943
Maj. Jose M. Ruffy	Mindoro	15 Dec. 1944
Maj. Pablo Muyco	Palawan	23 Feb. 1945
Capt. Manuel Donato	Masbate	3 Apr. 1945
Capt. Sofronio Untalan	Marinduque	15 Dec. 1944

2. Under the provisions of Executive Order No. 21, by the President of the Commonwealth of the Philippines, dated 26 October 1944, the status of units under commanders listed above is that of members of the Philippine Army.

By command of General MacArthur:

D. W. Dooley,
Capt, AGD,
Asst, AG,

Note: Revision of 12 August 1947, consisting of several pages relating to various units of the 7th Military District, Island of Negros, fixes a revised recognition date of 17 November 1942.

GENERAL HEADQUARTERS
UNITED STATES ARMY FORCES, PACIFIC

APO 500

AG 323.361 (1 Nov 45) DCSO 1 November 1945

Subject: Matters Pertaining to the Philippine Army.
To: Commanding General, United States Army Forces, Western Pacific, APO 707

1. Effective 5 November 1945 you are charged with the responsibility for, and authorized to act on, all United States Army matters pertaining to the Philippine Army and the Philippine Commonwealth Government. The following tasks are included among these matters:

a. Execution of Philippine Army demobilization plans as set forth in the revised Plan for Demobilization of Philippine Army, attached.

b. Preparation and conclusion of arrangements for the releases of units to be turned over to the Philippine Government on 30 June 1946. In this connection you will be guided by policies set forth in the revised Plan for Post-War Philippine Army, attached.

c. Arrangements of details in connection with the enlistment of Philippine Army personnel in the Philippine Scouts under the 50,000 Scout project now being developed by the War Department.

d. *Recognition of additional guerrilla units* or individuals for the purpose of entitling them to benefits for services rendered.

e. Handling of finance matters pertaining to the Philippine Army. In this connection, authority is being delegated to you by separate communication to approve the allocation of funds from United States appropriations for use by the Philippine Army.

2. In order to assist you in the accomplishment of the above tasks, orders will be issued without delay to transfer to your command such *personnel of the Philippine Army Section, United States Army Forces, Pacific* as you may desire, and the United States Army Training Group.

3. Action is also being initiated to transfer to you authority to make final determinations under the Missing Persons Act, in case involving personnel of the Philippine Army. When this action is completed, it is contemplated that the Recovered Personnel Basic: Ltr to CG AFWESPAC subj: "Matters pertaining to the Philippine Army." dtd 1 November 1945, file AG 323.361 (1 Nov 45) DCSO.

Division, Adjutant General Section this headquarters and the Recovered Personnel Detachment, United States Army Forces, Pacific will be transfered to your command.

By Command of General MacArthur:

B. M. FITCH
Brigadier General, U. S. Army,
Adjutant General

2 Incls:
Incl. 1-Revised Plan for Demobilization of Philippine Army
Incl 2-Revised Plan for Post-War Philippine Army.
cc:
Chief of Staff,
Philippine Army Section.
G-1
G-3
PA Section
Fiscal Director
AG-P
C/S PA Section
AG Recruiting
OCSO—Tokyo

HEADQUARTERS
UNITED STATES ARMY FORCES WESTERN PACIFIC
OFFICE OF THE COMMANDING GENERAL

APO 707
16 OCT 1946

GSCPG 091 PI

SUBJECT: Recognition of Guerrilla Unit

To: Chief of Staff, Philippine Army, APO 75

"1. The unit listed below is recognized by the Commanding General, United States Army Forces, Western Pacific,

as having been an authorized element of the Philippine Army, *inducted into the Armed Forces of the United States from 9 January 1945 to 2 September 1945:*

Miguel Ver Regiment, Composite Unit
Hunters or ROTC Guerrillas

	Strength
Officers	165
Enlisted Men	3,595
	3,760

"2. Under the provisions of Executive Order No. 21, by the President of the Commonwealth of the Philippines, dated 26 October 1944, the status of the members of this unit, during the period above specified, was that of officers and enlisted men of the Philippine Army.

"3. Under the provisions of Executive Order No. 68, by the President of the Commonwealth of the Philippines, dated 26 September 1945, all officers and enlisted men of this unit, other than those who are members of the Regular Force or the Reserve Force of the Philippine Army, will be considered as having been discharged from the Philippine Army as of 2 September 1945." (Italics supplied.)

"FOR THE COMMANDING GENERAL:

"THOMAS J. BROWN
CWO, USA
Asst Adj Gen"

HEADQUARTERS
UNITED STATES ARMY FORCES WESTERN PACIFIC
OFFICE OF THE COMMANDING GENERAL

GENERAL ORDERS
No. 168

APO 707
25 June 1946

RELEASE OF THE MILITARY FORCES OF THE GOVERNMENT OF THE COMMONWEALTH OF THE PHILIPPINES

Effective 2400 hours, 30 June 1946, the military forces of the Government of the Commonwealth of the Philippines, now assigned or attached to United States Army Forces in the Western Pacific, are released from such assignments and attachments, from service in the armed forces of the United States of America, and revert to full control of the Government of the Commonwealth of the Philippines. (GSCOT 323.361)

BY COMMAND OF LIEUTENANT GENERAL STYER:

J. G. CHRISTIANSEN
Major General, USA
Deputy Commander and
Chief of Staff

OFFICIAL:
s/ J. J. Gerhardt
t/ J. J. GERHARDT
Colonel, AGD
Adjutant General

DISTRIBUTION:
AE

APPENDIX Z

USAFFE Regulations
No. 1-75

1-75
USAFFE
A.P.O. 501
7 April 1945

Claims Service, USAFFE

1. *Designation.* There is established in this theater a claims service designated as "CLAIMS SERVICE, USAFFE".

2. *Components.* Claims Service, USAFFE, will consist of:

a. A Chief of Claims, functioning through a central headquarters and such branch offices as may be necessary.

b. Claims Commissions, composed of one or more officers with such authority as may be delegated to them in the appointing order.

c. Claims Investigating Service.

3. *Administrative Responsibility.* a. The Chief of Claims is charged with:

(1) Supervision and direction of the Claims Commissions of the Claims Investigating Service.

(2) Supervision and coordination of the investigation and processing of claims in the Southwest Pacific Area of the following nature:

(a) Claims within the scope of AR 25-20, 25-25, 25-30, 25-90, 25-100, 25-220, and AR 55-500.

(b) Claims for employees' compensation benefit in cases of disability or death of civilian employees of the United States resulting from personal injury while in the performance of their duties, as provided under the United States Employees' Compensation Act of September 7, 1916, as amended. (See United States Employees' Com-

pensation Commission's Administrative Order No. 1, as amended.)

(c) Claims of a contract nature, where payment cannot otherwise be readily made through disbursing officers because of procedural irregularities. (See Circular No. 33, this headquarters, 7 April 1945.)

(3) Issuance of amendments to USAFFE Claims Manual, 15 March 1945, (approved and issued by this headquarters on 7 April 1945), relating to matters of procedure. USAFFE Regulations No. 1-75, 4 October 1944, including C-1, 4 Dec. 1944, and other regulations or instructions in conflict with these regulations are rescinded.

(4) Duty as liaison officer between the United States Army and the Commonwealth of Australia or other governments as to details of claims coming within the provisions of the Foreign Claims Act or AR 25-90, which may be assumed or paid by the Commonwealth or by another government.

b. Direct communication is authorized between Claims Service, USAFFE, and,

(1) commanding officers authorized to appoint claim officers, on all matters pertaining to the investigation, processing and settling of claim.

(2) appropriate officials of the Commonwealth of Australia or other government as to matters pertaining to details of claims.

4. *Responsibility of Unit Commanders.* Notwithstanding the establishment of Claims Service, USAFFE, immediate responsibility for the investigation of an accident or incident resulting in property damage, loss, or destruction, or personal injury or death, rests upon the commanding officer of the regiment or corresponding unit, or that higher echelon, or base, camp, or station, which is most directly involved.

5. *Personnel and Supplies.* All military personnel for branch offices of Claims Service, USAFFE, including claims commissions created therein, will be furnished by Claims Service, USAFFE. The Commanding General, USASOS, will supply necessary civilian personnel, office supplies, transportation, quarters, subsistence, office space and equipment. Claims Service personnel on temporary duty with divisions, or other operational headquarters, will be provided with office space, office supplies and equipment, transportation, quarters, and subsistence by the command to which they are attached.
FECS 323.31

By Command of General MacArthur:

RICHARD J. MARSHALL,
Major General, General Staff Corps
Chief of Staff.

OFFICIAL:

s/R. E. Fraile
t/R. E. Fraile,
Colonel, A.G.D.,
Adjutant General.

APPENDIX AA

HEADQUARTERS CLAIMS OFFICE, AFWESPAC OFFICE OF THE CHIEF OF CLAIMS

APO 707
17 July 1945

GSCL
Subject: Claims Arising out of guerrilla activities.
Memorandum to: Commanding General, AFWESPAC.

1. This Memorandum covers an analysis of studies made as to claims arising out of guerrilla activities (see attached exhibits), and request that if such claims are to be settled policies be established with respect to processing and pay-

ing them by Claims Service, AFWESPAC, through its Commissions.

2. Guerrilla activities in the Philippines commenced soon after the surrender in 1942. Some of the units were led by U.S. Army personnel, some by Philippine Army personnel, and others by native leaders out of patriotic, or in some instances purely selfish, motives. The units became established throughout many areas in the Islands. Certain leaders, like Col. Fertig, Col. Cushing and Col. Volckmann, who were trained army officers, developed competent military organizations, while other leaders operated indifferently. A comprehensive report entitled "Guerrilla Resistence Movements in the Philippines" was published by G-2 GHQ, SWPA, on 21 March 1945, and covers the general nature, scope and history of guerrilla activity as completely as any other source of information.

3. Many problems were encountered by these organizations. There was no command authority, no common policies, no safe area for training or garrison purposes, leaders were without funds to meet payroll or purchase necessities, and there was no adequate supply of implements of war. Many members, as well as civilian employees were captured or killed.

4. Various units employed different methods in the field. Some borrowed money, some issued their own. A number purchased their supplies, others merely gave receipts or commandeered what they required. Some of the soldiers and civilians were paid wages, but most of them served as volunteers. Private property was utilized when needed and a considerable amount of it was destroyed.

5. It now becomes necessary to solve the claims problems arising as the result of these activities. Two of the better known commanders have made requests which require a determination and establishment of basic policies for general application throughout the Archipelago.

6. Under the leadership of Lt. Col. James M. Cushing, the guerrilla movement in Cebu was centralized 3 September 42 (Ex. 8). Unit commanders in that area called all former members of the National Volunteers Association to active duty as labor personnel (Ex. 8), while other able-bodied men volunteered their service. None has been paid. The various units claimed they maintained records showing dates and names of civilians employed without specifying the rate of pay (Ex. 8). General MacArthur on 22 January 44, by radiogram, recognized Col. Cushing as the commander of the Cebu area, stating "I shall endeavor to finance your operation" (Ex. 4(A)). This was confirmed by letter on 12 February 44 (Ex. (B)). Col. Cushing's command comprises 8,762 enlisted men and 624 officers (Ex. 5, par. 8), together with approximately 122,000 "loyal male civilian laborers" employed from time to time (Ex. 1). He did not issue guerrilla currency but spent ₱455,390.22 during the occupation, of which ₱276,620.00 was expended for partial payments to his officers and enlisted men, leaving outstanding indebtedness for subsistence in the amount of ₱954,659.02, and an undetermined amount due for labor (Ex. 5, par. 8). He has now requested "authority to obligate current funds for the payment of this labor through the American Disbursing Officer" (Ex. 1), and the authority "to pay all outstanding obligations incurred by this command since September 1942" (Ex. 3). Finance has set up methods and procedures to meet current payrolls (Ex. 5, par. 13(a)).

7. In the Northern Luzon area, Col. Moses and Col. Noble, escaped U.S. officers, estalished a guerrilla command. Colonel (then Major) Russell W. Volckmann, escaped from Bataan and reported to Col. Noble on 1 September 42. When Moses and Noble were captured by the Japanese on 1 June 43, Col. Volckmann, as senior officer, assumed command and since that time has directed the activities of the main guerrilla forces in Northern Luzon (Ex. 15(a), (B) and (C)). This organization later became

known as USAFIP. The details of his policies and procedure concerning finance and supply are set forth in the letter of Col. Volckmann, dated 16 October 44 to CG, SWPA (Ex. 15(a)) and statement of 7 June 45 (Ex. 15(B)). His organization extended through nine provinces (Ex. 15 (D)). On 7 June 45 the organization comprised 958 officers and 19,016 enlisted men (Ex. 15 (K)), beside numerous civilians sometimes designated as "bolo men" (Ex. 15 (G)). All units of the command were formally recognized as elements of USAFFE as of 9 January 45 (Ex. 15(J)).

8. In Col. Volckmann's organization, receipts were ordinarily given when purchases and requisitions were made. Sometimes prices were mentioned, but often the question of price was left to be fixed at a future date (Ex. 5, par. 2). Civilians were employed as cargadores, messengers, intelligence agents, etc. (Ex. 5, par. 2). Some services were rendered gratuitously without expectation of compensation; whereas in other instances, there was a general understanding that payment would be made at a later date at the rate of ₱1.00 per day for common labor and an undertermined higher scale for certain special services (Ex. 15). There is no authoritative estimate of the number or amount of these outstanding obligations. On 2 April 45 Col. Volckmann requested authority to pay back-pay of these civilian laborers and past receipts for supply (Ex. 12 and 14).

9. Opinions have been expressed that because the resistance movement in the Philippines was basically a spontaneous patriotic uprising by a large portion of the populace, that to reimburse all who rendered service might reduce future pariotism to mercenary level (Ex. 13, par. 4). The guerrilla leaders themselves are not in agreement as to compensation for civilian personnel. Col. Cushing and Col. Volckmann favor it, Col. Fertig is opposed to it, and Col. Peralta favors it only if other units receive

pay (Ex. 5, par. 14d). There is a serious legal question as to propriety of paying some of these claims (Ex. 7). Some of the leaders issued guerrilla currency, while others refused to do so, and a considerable amount of unredeemed currency is still held by persons who received it in payment for supplies furnished.

10. According to estimates based upon information secured by Claims Service, AFWESPAC, the number of claims which may be expected to arise out of the activities of the forces under Colonels Fertig, Cushing, Peralta and Volckmann, will be in excess of three quarters of a million, totalling possibly two hundred million dollars. In addition, if employer-employee relationship is established, U.S. Employees' Compensation benefits would extend to the tens of thousands killed or wounded in performance of duty, unless the theater commander should order otherwise. No estimate of the number or amount is possible at this time.

11. There is serious doubt that payment of expenses incurred by guerrilla organizations, even those recognized, can be paid out of presently appropriated funds.

12. In order for Claims Service to meet the above situation, it is necessary, and requested, that a definite policy be established as to the extent the United States will assume payment of the Claims arising out of guerrilla activities, and that specific instructions be issued to this Service with respect to the following basic questions:

a. Will the United States assume responsibility of paying any claims arising out of activities of guerrilla forces?

b. If so, will payment be limited to those arising out of the activities of recognized forces only?

c. If limited to recognized forces, will be the period covered extend from the date of the forces' organization, or from the date of recognition?

d. From what funds will such claims be paid?

e. To what extent will be the general policy as to payment of the following types of claims?:

(1) Labor service rendered.

(2) Property and supplies contracted for.

(3) Property and supplies requisitioned or commandeered.

(4) Money borrowed to finance units.

(5) Guerrilla currency paid for supplies and services.

(6) Use and occupancy of property.

(7) Damages caused by noncombat activities.

(8) Compensation benefits to civilians injured or killed on duty.

13. Should it be determined that any of the foregoing claims will be paid by the United States, this Service is in a position to immediately begin processing them upon receipt of instructions. Due to the fact that several guerrilla commanders and their subordinates are contemplating an early return to the States, the urgency of immediate action on this matter cannot be overemphasized.

/s/ J. A. Myatt
/t/ J. A. Myatt
Colonel, JAGD
Chief of Claims

AG 370.64 (17 Jul 45) DCS 1st Ind.

GENERAL HEADQUARTERS, UNITED STATES ARMY FORCES, PACIFIC,
APO 500 6 August 1945.

To: Commanding General, United States Army Forces, Western Pacific, APO 707.

1. The answers to the several questions propounded by the memorandum of the Chief of Claims, dated 17 July 1945, are as follows:

a. Yes. *The United States Army will assume the responsibility for paying certain claims arising out of activities of guerrilla forces in the Philippines.* That responsibility will be limited to claims for the value of goods or services essential for carrying on operations against the enemy.

b. Yes. No payments will be made on claims arising out of activities of other than recognized guerrilla forces.

c. The effective date of such claims will be the same as those for the pay of the personnel of the guerrilla forces, i.e., the effective date of recognition, not the date upon which the decision to recognize is made.

d. *Such claims will be paid from the appropriation, "Expenses, Army of the Philippines".*

e. *Payment will be made only on claims where there was a clear understanding at the time the supplies and equipment or services were purchased or contracted for that payment would eventually be made.* There must have been a clear intention on the part of the guerrilla commander and of the vendor or employee that an obligation was being created. It must be definitely shown that the provision of such supplies, equipment or services was not intended as a patriotic donation to the common cause against the enemy. It must also be definitely shown that the supplies, equipment or services were essential for the operation of the guerrilla forces.

2. It is desired that immediate steps be taken to commence the processing of all such pending claims.

3. The identity of those guerrilla forces which have been recognized by this headquarters and the effective date of such recognition will be advised from time to time in letters from this headquarters.

By command of General MacArthur:

B. M. Fitch,
Brigadier General, US Army,
Adjutant General.

(Italics supplied)

APPENDIX BB

(40 Op. A. G. 185)

National Service Life Insurance Act

Personnel of the organized military forces of the Commonwealth of the Philippines called and ordered into the armed forces of the United States under authority of the President's Military Order of July 26, 1941, are in active service in the land and naval forces of the United States and are entitled to insurance under the National Service Life Insurance Act of 1940.

April 27, 1942.

The Administrator of Veterans' Affairs.

My Dear Mr. Administrator: Reference is made to your letter of April 22, 1942, requesting my opinion "whether the personnel of the organized military forces of the Government of the Commonwealth of the Philippines, who are called and ordered into the armed forces of the United States under authority of the Military Order approved by the President of the United States on July 26, 1941, are considered in the active service in the land or naval forces of the United States for the purpose of granting insurance (contract and automatic) authorized under the National

Service Life Insurance Act of 1940" as amended (October 8, 1940, c. 757, 54 Stat. 974, 1008; December 20, 1941, c. 602, sec. 10, 55 Stat. 844)."

With your letter you submit an opinion of your Solicitor which reaches the conclusion that the personnel mentioned are part of the land and naval forces of the United States, in the active service, and therefore entitled to insurance under the statute. I agree with this conclusion.

The National Service Life Insurance Act of 1940 makes insurance thereunder, both contract and automatic, available to every person in the active service in the land and naval forces of the United States.

Section 2(a) of the Philippine Independence Act (48 Stat. 456) reads, in part:

> "The constitution formulated and drafted [by the Philippine Legislature] . . . shall, either as a part thereof or in an ordinance appended thereto, contain provisions to the effect that, pending the final and complete withdrawal of the sovereignty of the United States over the Philippines Islands— . . .
>
> "(12) The Philippine Islands recognizes the right of the United States to . . . maintain military and other reservations and armed forces in the Philippines, and, upon order of the President, to call into the service of such armed forces all military forces organized by the Philippine government." . . . .

Compliance with the above statutory requirement is found in section 1(12) of the Ordinance Appended to the Constitution of the Philippines.

Acting under the authority contained in the above-quoted provision of section 2(a) of the Philippine Independence Act and in section 1(12) of the Ordinance Appended to the Constitution of the Philippines, the President on July 26, 1941, issued a Military Order reading as follows:

"Under and by virtue of the authority vested in me by the Constitution of the United States, by section 2(a)(12) of the Philippine Independence Act of March 24, 1934 (48 Stat. 457) and by the corresponding provision of the Ordinance appended to the Constitution of the Commonwealth of the Philippines, and as Commander-in-Chief of the Army and Navy of the United States, I hereby call and order into the service of the armed forces of the United States for the period of the existing emergency, and place under the command of a General Officer, United States Army, to be designated by the Secretary of War from time to time, all of the organized military forces of the Government of the Commonwealth of the Philippines: *Provided*, That all naval components thereof shall be placed under the command of the commandant of the Sixteenth Naval District, United States Navy.

"This order shall take effect with relation to all units and personnel of the organized military forces of the government of the Commonweath of the Philippines, from and after the dates and hours, respectively, indicated in orders to be issued from time to time by the General Officer, United States Army, designated by the Secretary of War."

In view of the above, *it seems clear that personnel of the organized military forces of the Commonwealth of the Philippines called and ordered into the armed forces of the United States under authority of the President's Military Order of July 26, 1941, are in active service in the land and naval forces of the United States.* It follows in my opinion, that they are entitled to insurance under the National Service Life Insurance Act of 1940, as amended, in accordance with the terms of that statute.

Respectfully,

FRANCIS BIDDLE.

(Italics supplied)

APPENDIX CC

The right of the military commander to requisition supplies and material vitally needed for his operations and the corresponding obligation to compensate therefor are recognized by the authorities on International Law.

Ralston, in his work on *International Law and Procedure* (rev. ed. 1926, sec. 721), has the following to say:

"That private property taken for public use in time of war (even when it is completely under the conqueror's control) must be compensated for, has repeatedly been held . . . "

Ralston then quotes from the holding of the Commission in the *Putegnat* case (Moore, *International Arbitrations* 3718) as follows:

" . . . Property taken or destroyed for the public use lawfully by the civil or military authorities must be paid for by the government. (*Mitchell* v. *Harmony*, 13 How. 115; *Hale* v. *Lawrence*, 3 Zabiskie 728; *Grant* v. *United States*, 1 Ct. of Cls. 41)", id.:

"In the *Baker* case (Moore, id., 3668) Thornton, umpire, held the Mexican Government responsible for articles taken by troops for the use of the Mexican Army and so used . . . (Ralston, 727.)

"In the case of *Bartlett and Bargé*, Thornton, umpire, gave an award for the seizure of personal property for military purposes (Moore, id., 3721) . . . So in the *Willet* case, the Commission compensated for property seized for military purposes, used and destroyed, (Moore 3743," Ralston, id., 727.)

Woolsey, *International Law* (4th ed. 1875), has the following to say on this same subject:

" . . . but if the wants of the hostile army require, it (that is, private property) may be taken by authorized persons at a fair value . . . . " (Sec. 130.)

Moore's *International Law Digest*, vol. 7, p. 287, makes the following statement, based on the opinion of this Court, in the case of *Mitchell* v. *Harmony*, 13 How. 115:

"Private property may be taken by a military commander for public use, in cases of necessity or to prevent it from falling into the hands of the enemy, but the necessity must be urgent, such as will admit of no delay, or the danger must be immediate and impending. But in such cases the government is bound to make full compensation to the owner."

Moore also quotes the following from the decision of this Court in *United States* v. *Russell*, 13 Wall. 623:

"Where private property is impressed into public use during an emergency, such as a war, a contract is implied on the part of the government to make compensation to the owner."

Fenwick, in his book on *International Law* (1924) discusses the question of the right of a commander in the field to requisition supplies needed in the following language:

"Customary law gives to a military occupant the right to provide for the immediate needs of the army of occupation by drawing upon the supplies of the local population . . .

"The necessity of making payment for supplies taken has likewise been recognized within recent years, but the obligation is conditioned upon the convenience of the local commander. The Hague Regulations merely provide that contributions in kind shall, as far as possible, be paid for in cash; and where this cannot be done, a receipt shall be

given, and the payment of the amount due shall be made as soon as possible." (Fenwick, p. 483.)

Moore, *International Law Digest*, vol. 6, pp. 902-3, has the following to say on this subject:

"Every civilized state recognizes its obligation to make compensation for private property taken under pressure of state necessity, and for the public good . . . Whenever, from necessity or policy a state appropriates to public use the private property of an individual, it is obliged, by a law as imperative as that in virtue of which it makes the appropriation, to give to the party aggrieved, redress commensurate with the injury he has sustained . . . . " (*Grant's* case, 1 Ct. of Cls. 41, 48-49.)